

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1921.

No. 110.

WILLIAM IRWIN, APPELLANT,

vs.

**SAM F. WEBB, COUNTY TREASURER OF MARICOPA
COUNTY, STATE OF ARIZONA, ET AL.**

**APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF ARIZONA.**

FILED JULY 22, 1922.

(27,811)

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1 In the District Court of the United States for the District
of Arizona.

In Equity.

No. E-89 (Phx.).

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor;
L. M. Laney, County Attorney; J. G. Montgomery, County
Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson,
County Supervisors of Maricopa County, State of Arizona, De-
fendants.

(Phoenix, Maricopa County, State of Arizona.)

Bill of Complaint.

To the Honorable Judge of the District Court of the United States
in and for the District of Arizona:

1

William Irwin, a citizen of the State of California, and a resident
of the City of Ontario, in the County of San Bernardino, and State
of California, in his own behalf, and in behalf of all enumerated
Reclamation Homestead Entryman Tax Payers of the Salt River
Project, of Maricopa County, State of Arizona, and their assigns,
similarly situated, brings this his bill against Sam F. Webb, County
Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County
Attorney, J. G. Montgomery, County Sheriff, and J. W. Bradshaw,
W. K. Bowen and C. W. Peterson, County Supervisors, of the County
of Maricopa, in said State of Arizona.

And thereupon your orator complains and says:

II.

2 That the plaintiff is now, and at all times hereinafter mentioned
was a citizen of the State of California, and a resident of the
City of Ontario, in the County of San Bernardino, and State
of California; and is now, and at all times hereinafter men-
tioned was a homestead entryman under the Homestead Laws of
the United States relating to homestead entries within the United
States Reclamation Project, and entitled to the rights, privileges
and immunities of homesteaders deriving title from the United States
Government by homestead entry within the Salt River Project, in

the State of Arizona; that he is entitled to claim exemption from taxation by the county authorities of Maricopa County, State of Arizona, against the premises heretofore entered by him as a homestead entry under the Homestead Laws of the United States governing homesteads within Reclamation Projects, until the making of final affidavit and the issuance of final certificate by the proper officers of the United States Land Office, and that he brings this suit, and files this Complaint in behalf of himself, and also in behalf of Reclamation Homestead Entryman Tax Payers within the Salt River Project in Maricopa County, State of Arizona, and their assigns, similarly situated, desiring to avail themselves of the benefits hereof.

That Sam F. Webb is the duly elected, qualified and acting County Treasurer, C. W. Cummins, the duly elected, qualified and acting County Assessor, E. M. Laney, the duly elected, qualified and acting County Attorney, J. G. Montgomery, the duly elected, qualified and acting County Sheriff, and J. W. Bradshaw, W. K. Bowen and C. W. Peterson are the duly elected, qualified and acting County Supervisors, of the County of Maricopa, in said State of Arizona, and each and all of said officials are residents of said County of Maricopa, and citizens of said State of Arizona, and of the Judicial District and division of this court in and for said state, and are the persons authorized, designated and entrusted by the laws of the State of Arizona with assessing, levying, and the collection of the state and county taxes under the laws of the State of Arizona.

3 That this suit arises under the constitution and laws of the United States, particularly Article IV and XIXth amendment of said constitution of the United States, and the laws relating to the disposition and sale of public lands, and defining rights, privileges and immunities of homesteaders deriving title from the United States Government, in that the acts and proceedings of the defendants complained of would, if permitted, abridge the privileges and immunities of the plaintiff as a citizen of the United States, and said acts and proceedings, if permitted, would abridge and deny to the plaintiff, within the State of Arizona, the equal protection of the laws, cloud the title of the plaintiff's homestead entry, and the homestead entry titles of said persons similarly situated, and jeopardizes, interferes with, and injures the title of the plaintiff to said homestead and the titles of said persons similarly situated to their respective homesteads, and involves the right of said county officials to assess, tax, levy upon and sell for satisfaction of liens United States Government Homestead Lands, to deliver a conveyance therefor before the issuance of Final Certificate or Patent therefor, and is a suit between citizens of different states, and that the amount in controversy herein exceeds the sum of three thousand dollars (\$3,000.00) exclusive of interest and costs.

III.

That on or about the year 1872 the land and premises herein-after described as being in Maricopa County, State of Arizona, then

the Territory of Arizona, became subject to entry under public land laws of the United States, and among others subject to entry under the General Homestead Law as provided by the Act of May 20, 1862, and Acts amendatory thereof and supplementary thereto.

That under and by virtue of said Act of May 20, 1862, and Acts amendatory thereof and supplementary thereto, the Secretary of the Interior Department of the United States Government was and is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper for the purpose of carrying out the provisions of said Acts.

That pursuant to said authority the Secretary of the Interior prescribed rules and regulations relating to homestead entries under said general homestead law under the title of "Suggestions to Homesteaders and Persons Desiring to make Homestead Entries", which said regulations are hereby referred to and made part hereof as fully and to all intents and purposes as if incorporated herein.

That said Acts, rules and regulations provide, among other things:

That every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such as required by the Naturalization Laws, shall be entitled to enter one quarter section or a less quantity of unappropriated public lands, to be selected in and be in conformity with the legal subdivisions of the public lands, by applying to enter said lands and making and subscribing before a proper officer and in a proper Land Office of the United States an affidavit showing that he or she is qualified to make said entry.

Every person making a homestead entry under said public land laws and regulations is required, among other things, to establish a residence upon the tract of land entered within six months after the date of entry, and maintain a residence thereon for a period of not

less than three years, and to cultivate said land for a period of at least two years; to submit final proof within five or seven years from date of entry as to residence, cultivation and improvement, first giving notice of the time and place for submission of final proof as required by said laws and regulations.

IV.

That thereafter the said public land laws were further amended and supplemented by the Act of June 17, 1902, commonly known as the "Reclamation Act."

That said Reclamation Act, and Acts amendatory thereof and supplementary thereto, provides for the withdrawal of public lands from all forms of entry except under homestead laws, and except when subject to the provisions, limitations, charges, terms and conditions of said Reclamation Act and Acts amendatory thereof and supplementary thereto.

That under and by virtue of said Reclamation Act and Acts Amendatory thereof and supplementary thereto, the Secretary of

the Interior was and is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper for the carrying out of the provisions of said acts.

That pursuant to said authority the Secretary of the Interior, upon the passage of said Acts, prescribed rules and regulations relating to reclamation homestead entries within Reclamation Projects of the United States in a general circular known as "General Reclamation Circular," which said regulations are referred to and made a part hereof as fully and to all intents and purposes as if incorporated herein.

That under said Reclamation Act and amendments and supplements thereto, and the rules and regulations prescribed thereunder, the Secretary of the Interior Department of the United States Government is authorized and empowered to determine the area of lands for which one person may obtain title under said Acts and regulations in each and every reclamation project.

That each entry is subject to readjustment by said Secretary of the Interior, and that said Secretary of the Interior is not required to confine any Farm Unit established by him to the limits of any entry theretofore made, but may combine any legal subdivision thereof with any contiguous tract lying outside of said entry.

That homestead entrymen within reclamation projects are precluded from making final proof and from receiving final certificate or patent until said Secretary of the Interior shall have determined the Farm Unit for such reclamation project.

That each homestead entryman under said reclamation Act is required to conform his entry to such Farm Unit as may be established by the said Secretary of the Interior.

That in addition to the acts and things required of homestead entrymen under the General Homestead Law, homestead entrymen on lands lying in irrigation projects are required to clear the land entered by, or assigned to them of brush, trees and other incumbrances, to provide the same with sufficient laterals for its effective irrigation, to grade the same and put it in proper condition for irrigation and crop growth, to plant, water and cultivate during at least two years next preceding the time of filing the Final Affidavit hereinafter mentioned at least one-half of the irrigable area of his entry, and to grow satisfactory crops thereon.

That under said reclamation acts and regulations no Final Certificate can be issued until the doing of all the things enumerated under said Acts and regulations, particularly the acts and things herein mentioned.

That in addition to the proof required under the general homestead laws of the United States homestead entrymen upon homesteads within any reclamation project are required, as appears from said acts and regulations and Form of Notice of acceptance of Proof of Homestead residence issued by the U. S. Land Office officials, copy of which is attached hereto, marked plaintiff's Exhibit "A" and made a part hereof; to submit to the United States Land Office in which such reclamation project is located an affidavit,

corroborated by two witnesses, showing that the land entered by him, or assigned to him, has been cleared of brush, trees and other incumbrances, provided with sufficient laterals for its effective irrigation, graded and otherwise put in proper condition for irrigation and crop growth, planted, watered and cultivated, and during at least two years next preceding the date of the filing of said Final Affidavit that satisfactory crops have been grown on at least one-half of the irrigable area thereof, and that the crops produced upon said premises are equal to the crops raised upon adjacent lands similarly situated.

That said entryman is further required before the issuance of Final Certificate to pay to the Land Office officials of the proper Land Office the sum of \$1.50 for each legal subdivision included in each farm unit, together with all water charges due thereon.

That upon the compliance with the requirements of said Reclamation Acts and regulations Final Certificate, form of which is attached hereto marked plaintiff's Exhibit "B" and made a part hereof, is issued to said Reclamation Homestead entrymen or assigns, reserving a lien to the United States Government for charges to become due for the irrigation works supplying said irrigation project with water, and that thereafter patent for said land issues to such entryman or assigns containing like reservations of a lien to the United States Government.

V.

That on the 17th day of July, 1902, the Secretary of the Interior withdrew the lands and premises hereinafter described, lying and being in Maricopa County, State of Arizona, from all entries except homestead entries under the Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto, and the regulations promulgated thereunder.

VI.

That thereafter, to wit, on the 25th day of June, 1904, said lands were incorporated in that certain reclamation project established under and by virtue of said Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto, and designated the "Salt River Project."

VII.

That on the 14th day of February, 1912, the Territory of Arizona was admitted into the Federal Union by Enabling Act approved June 20, 1910, whereby the lands and property belonging to the United States of America or reserved for its use were exempted from taxation.

VIII.

That this plaintiff and said homesteaders among others similarly situated made entry of the various tracts of land involved herein and

described in that certain list attached hereto, marked plaintiff's Exhibit "C" and made part hereof; and that this plaintiff and said homestead entrymen similarly situated fully and truly in every particular complied with the requirements of said general homestead laws and said reclamation homestead laws, and made entries for the respective entries therein described, and proofs regarding the same and assignments thereof, and affidavits and proofs relating thereto, upon the dates therein mentioned, which lands are of the value therein stated, and that the assignees of said entrymen fully and truly in every particular complied with the requirements of said general homestead law and said reclamation homestead law, and made the affidavits and proofs at the respective times therein mentioned and stated, and said tracts of land are of the value therein set forth, and that the assessments therein stated are the assessments, levied and taxes made and levied against and upon said premises by the county authorities of the County of Maricopa, State of Arizona, as therein set forth.

IX.

That after the incorporation on said lands within the Salt River Project, to-wit, on the 25th day of June, 1904, and the establishment of said lands as reclamation homestead entries, to-wit, during the years 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918 and 1919, and before the issuance of Final Certificates or patents for said lands, the County authorities of Maricopa County, State of Arizona, (then the Territory of Arizona) duly assessed said lands described in plaintiff's Exhibit "C" for State and County taxes for said County and State aforesaid, and thereafter the Board of Supervisors of said County and State duly levied a tax against the various tracts of land described in plaintiff's said Exhibit "C" which taxes were duly entered upon the public tax records of said County and State and duly declared a lien upon said lands.

That thereafter each year during the continuance of the territorial status of said State of Arizona, and following the admission of said Territory as a State into the Federal Union, said County and State authorities duly and annually assessed and levied taxes against said premises for each and every one of said years; that said taxes were thereafter duly entered upon the public tax record of Maricopa County, State of Arizona, and by said authorities and under and by virtue of the laws of the State of Arizona duly declared to be a lien upon said lands.

X.

That on said 18th day of January, 1917, the Secretary of the Interior Department of the United States Government established Farm Units within the Salt River Project under said Reclamation Act of June 17, 1902, and the regulations issued thereunder and ordered and required all homestead entrymen within two years from the date thereof to conform their entry to such Farm Unit.

XI.

That the County Assessor, Board of Supervisors, County Attorney, County Sheriff and County Treasurer, of Maricopa County, State of Arizona, defendants above named, despite the fact that final proof had not been made thereon, and despite the fact that no affidavit of proof of reclamation, improvement or irrigation relating thereto had been made, or fees paid thereon, and that no Final Certificate had been issued therefor, annually levied and assessed State and County taxes against said lands, and the whole thereof, and demanded the payment of said taxes from this plaintiff and said entrymen herein mentioned and their assigns among others for each and every year mentioned and in the amounts set forth in plaintiff's Exhibit "C."

XII.

That this plaintiff and said Homestead Entrymen among others similarly situated claim possession and the right to perfect title to their respective tracts of land described in plaintiff's said Exhibit "C," under the homestead laws of the United States governing homesteads in Reclamation Projects, and that said county authorities assert and claim authority to assess and levy said taxes under the Tax Laws of the State of Arizona, to create liens thereon and to sell premises to satisfy said liens and to deliver conveyances to the purchasers thereof.

That said premises and the whole thereof are exempt from taxation and sale for taxes under the constitution and laws of the United States until the making of final proof and the issuance of Final certificate therefor by the proper Department of the United States Government.

That said defendants deny said exemption and are preparing and threatening to, and unless restrained will irreparably injure and damage this plaintiff and said Homestead Entrymen similarly situated by assessing and levying additional taxes against the said lands of this plaintiff and the lands of similarly situated Homestead Entrymen among others described in plaintiff's said Exhibit "C"; by collecting said taxes heretofore levied against said premises; by instituting suits for the enforcement and collection of said taxes heretofore levied, and for the enforcement and collection of taxes proposed to be assessed and levied by them; and by selling said lands under the law of the State of Arizona relating to delinquent taxes, and delivering deeds to the purchasers of said lands under said tax sales.

That said defendants are preparing and threatening to, and unless restrained will irreparably damage, injure, jeopardize and destroy plaintiff's interest, and the interest of said entrymen similarly situated, in and to their said respective lands; prevent the perfection of plaintiff's title and the title of said entrymen similarly situated to their said lands and create and cast a cloud upon the title to said lands by instituting numerous and harrassing suits for

the collection of present taxes assessed and levied, and future taxes which the defendants are preparing and threatening to assess and levy; by declaring said taxes a lien upon said lands; by selling said lands for the satisfaction of said tax liens; by casting clouds thereon and by delivering deeds of conveyance to purchasers thereof, all which acts defendants threaten and are prepared to carry out before the making of final affidavit or the issuance of final certificate for said lands.

That said premises of this plaintiff are of the value of \$10,000.00 and that the total value of said premises herein described as known to plaintiff is in excess of \$498,000.00.

That the total amount of taxes so assessed and levied against the premises of this plaintiff is the said sum of \$3,228.36 and that the total taxes assessed against said premises known to plaintiff is in excess of \$24,811.18 exclusive of interest and costs.

That neither this plaintiff nor said Entrymen similarly situated have any recourse against said county officials or any other person, or persons, for any cloud cast upon their titles, taxes collected, or damages sustained by them.

That this plaintiff and said entrymen, and all of them, are without an adequate remedy at law, and that the interposition of a court of equity is necessary for the protection of this plaintiff's rights in the premises and the rights of said similarly situated entrymen.

That the assessment, levy and collection of said taxes, the creation of tax liens thereon and all sales of said premises by said officials before the making of final proof, and the issuance of final certificate therefor, are acts contrary to law, wrongful and unlawful and without any right or justification, and will cause this plaintiff and said similarly situated Entrymen irreparable injury which could not be compensated for in damages.

Wherefore, plaintiff prays:

1. That the defendants, Sam F. Webb, C. M. Cummins, L. M. Lamey, J. G. Montgomery, J. W. Bradshaw, W. K. Bowen and C. W. Peterson, constituting the tax assessing, levying and collecting authorities of Maricopa County, State of Arizona, and each of them, and their successors in office, be temporarily and permanently enjoined and restrained from in any way or manner enforcing, or attempting to enforce, the collection of any taxes assessed or levied against the premises of this plaintiff and among others similarly situated the entrymen and their assigns mentioned and described in this complaint prior to the making of final proof and the issuance of Final Certificates therefor by the officers of the proper Department of the United States Government.

2. That said defendants, and each of them, and their successors in office, be temporarily and permanently enjoined and restrained from assessing or levying any taxes under the laws of the State of Arizona against said premises before the making of final proof and the issuance of Final Certificate by the proper officers of the United States Government.

3. That the said defendants, and each of them, and their successors in office, be temporarily and permanently enjoined and restrained from instituting, prosecuting or maintaining any suit or action or proceeding for the collection of any taxes levied or assessed against said premises prior to the making of final proof and the issuance of Final Certificate therefor by the officers of the proper Department of the United States Government.

4. That all taxes levied against said premises previous to the making of final proof and the issuance of Final Certificate by the officers of the proper Department of the United States Government be declared illegal, void and unenforceable.

5. That all assessments, levies and sales heretofore made by said officials, or their predecessors in office, be removed as a cloud from the title of said entrymen and their assigns.

14 6. That the title of this plaintiff and said entrymen and their assigns in and to said premises and each and every part thereof be quieted as against all taxes assessed, levied or made by said defendants and their predecessors in office before the making of final proof and the issuing of final receipt therefor.

7. That the assessment, levy, suit or sale of said lands, or the doing of any other acts or thing towards the collection or enforcement of future taxes by the said county authorities, or their successors in office against said lands before the making of final affidavit, and the issuance of final certificate therefor be declared a cloud upon the title of said entrymen and their assigns and be removed therefrom.

8. For his costs and disbursements herein expended, and for such other and further relief as to the Court may seem just and meet.

M. J. DOUGHERTY AND DOUGHERTY & DOUGHERTY,

Solicitors for Plaintiff.

M. J. DOUGHERTY,

Business Address: Mesa, Arizona;

DOUGHERTY & DOUGHERTY,

Business address: Mesa, Arizona,

Solicitors for Plaintiff.

DISTRICT OF ARIZONA,

State of Arizona,

County of Maricopa, ss:

M. J. Dougherty, being first duly sworn on oath, deposes and says:

That he is a resident of Mesa, Arizona, and is an attorney and counselor at law, and a resident of said state, duly admitted to practice in the District Court of the United States, of the District of Arizona; that he is one of the Solicitors for the plaintiff herein; that he has read the foregoing Bill of Complaint and knows the contents

thereof, that the same is true of his own knowledge, except as to
 the matters therein stated to be alleged upon information
 15 and belief, and that as to those matters he believes them to
 be true.

Depoent further states that he is personally acquainted with the
 plaintiff herein; that the source of his information and the ground
 of his belief, as to all matters in the foregoing Bill of Complaint, are
 conversations with said plaintiff and said entrymen therein men-
 tioned, examination of land office and county records, and con-
 versation with said defendants, and familiarity with the property
 described in said Complaint; and that the reason why this verifica-
 tion is made by deponent, and not by the plaintiff herein, is that the
 plaintiff is not within the State of Arizona.

(Signed)

M. J. DOUGHERTY

Subscribed and sworn to before me this 11th day of December
 A. D. 1919.

My commission expires September 6, 1922.

(Signed)

WM. A. HOCKINS,

Notary Public

16

"PLAINTIFF'S EXHIBIT 'A'"

Notice of Acceptance.

Received Jan. 26, 1914, U. S. Land Office at Phoenix, Arizona.

Department of the Interior,

General Land Office,

Washington, D. C., January 21, 1914.

Notice of Acceptance of Proof of Homestead Residence, Cultivation
 and Improvements.

Mr. Samuel L. Brown,

Mesa, Arizona.

(Through Register and Receiver, Phoenix, Arizona).

SIR:

You are advised that the final proof submitted by you on Homestead Entry No. 1090, Serial No. 03944, made Oct. 25, 1907, subject to the Act of June 17, 1902 (32 Stat. 388), for the N. W. 1/4 S. E. 1/4 Section 4, Township 1 N., Range 5 E., Meridian G. & S. R., has been examined in this office and found to be sufficient as to the residence, cultivation and improvements required by the ordinary provisions of the homestead law. Further residence on the land is not required in order to obtain patent, and final certificate and patent will issue upon proof that at least one-half of the irrigable area in the entry, as finally adjusted, has been reclaimed, and that all the charges, fees and commissions due on account

thereof and all water right charges have been paid to the proper receiving officer of the Government. If the entryman desires a patent before all water-right charges assessed against the land have been paid in full, a patent will be issued upon proof of reclamation and payment of all water-right charges due at the date of patent, and a lien will be retained under the Act of August 9, 1912 (37 Stat. 265) for unpaid charges.

Very respectfully,

C. M. BRUCE,
Assistant Commissioner.

17 If this entry does not conform to a farm unit as established by the Department, notice is hereby expressly given that the entry is subject to be conformed and its area thereby reduced. This conformation to a farm unit may be effected by assignment of the excess acreage.

18 "PLAINTIFF - EXHIBIT 'B.'"

Department of the Interior,

United States Land Office, Phoenix, Arizona.

H. R. P.

Serial No. 036,446.

Receipt No. 2,359,828.

Final Certificate.

Homestead Act 6-17-02.

This certificate does not cover payment of water-right charges and the patent to be issued hereon will reserve to the United States a lien for the payment of such charges.

October 16, 1919.

It is hereby certified that, pursuant to the provisions of Section 2291, Revised Statutes of the United States, Gertrude F. Standage, c/o M. J. Dougherty, Mesa, Arizona, has made payment in full for Lot 4 on S. W. $\frac{1}{4}$ S. W. $\frac{1}{4}$ (Farm Unit "J") Section 31, Township 1-S., Range 1-E., G. & S. R. B. & Meridian, Arizona, containing 36.14 acres.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, that said Gertrude F. Standage shall be entitled to receive a Patent for the land above described if all then be found regular.

J. L. IRVIN,
Register.

NOTE.—A duplicate of this Certificate is issued to the claimant as notice of the acceptance of the proof and payment, and of the allowance of the entry by the Register and Receiver.

19 The original is forwarded to the General Land Office, with the entry papers, for approval by the Commissioner of the General Land Office and issuance of patent.

The duplicate copy forwarded to the claimant should be held until notice of issuance of patent is received.

In all correspondence concerning the entry in connection with which this certificate issued, refer to the name of the Land Office and the Serial Number noted hereon.

Posted _____, _____, in Vol. _____, by _____, Div. "O."

Approved _____,

By _____,
Division _____.

PLAINTIFF'S EXHIBIT "C"

Tract No. 1.

W. A. Anderson made Homestead Entry, Serial No. 9377, on June 24, 1903, for N. E. $\frac{1}{4}$ Section 29, T. 1 S., R. 6 E. of G. & R. B. & M., Maricopa County, Arizona; proof of residence made August 18, 1910; entryman assigned N. W. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of said Section 29 to James Anderson, and E. $\frac{1}{2}$ of N. E. $\frac{1}{4}$ of said Section 29 to A. R. Heineman, November 7, 1918; assessments and levies for 1911, \$113.68, 1912, \$248.64, 1913 \$189.16, 1914 \$216.97, 1915 \$226.68, 1916 \$193.25, 1917 \$217.42, 1919 \$140.56; total taxes assessed \$1,425.70; entryman filed final affidavit and payment made June 20, 1919; final certificate issued June 21, 1919; value of said S. W. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of said Section 29 retained by W. A. Anderson \$10,000.00.

Tract No. 2.

James Anderson acquired by assignment from W. A. Anderson N. W. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of Section 29, T. 1 S., R. 6 E. of G. & S. R. B. & M., Maricopa County, Arizona, November 7, 1918; assessments and levies 1919, \$140.56; final affidavit filed and payment made June 20, 1919; final certificate issued June 21, 1919; value \$10,000.00; total taxes and tax liens \$1,425.70.

Tract No. 3.

A. R. Heineman acquired by assignment from W. A. Anderson E. $\frac{1}{2}$ of N. E. $\frac{1}{4}$ of Section 29, T. 1 S., R. 6 E. of G. & S. R. B. & M., Maricopa Count, Arizona, November 7, 1918; assessments and levies 1919, \$116.72; final affidavit filed and payment made November 14, 1919; final certificate issued to-wit, October 31, 1919, value \$10,000.00; total taxes and tax liens \$1,401.86.

Tract No. 4.

James Q. Wallace made Homestead Entry, Serial No. 03030, on May 11, 1904, for S. E. $\frac{1}{4}$ of Section 19, T. 1 N., of R. 5 E.,

Maricopa County, Arizona; proof of residence made October 21 29, 1909; Entryman assigned S. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 19 to Charles Shouse, the S. E. $\frac{1}{4}$ of said Section 19 to Arthur Carter, and the N. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of said Section 19 to W. G. Ray, on January 17, 1919; assessments and levies for 1912 \$269.35; 1913 \$337.47; 1914 \$473.73; 1915 \$569.77; 1916 \$365.68; 1917 \$472.19; 1918 \$491.30; and 1919 \$226.94; total taxes assessed \$3,306.53; entryman filed final affidavit and payment made October 31, 1919; final Certificate issued November 4, 1919; value of said N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 19, \$10,000.00.

Tract No. 5.

Charles Shouse acquired by assignment from James Q. Wallace the S. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Section 19 T. 1 S., R. 6 E., Maricopa County, Arizona, on January 17, 1919; final affidavit filed and payment made October 31, 1919; final certificate issued November 4, 1919; assessments and levies 1919 \$121.80; value \$10,000.00; total taxes and tax liens \$3,201.39.

Tract No. 6.

Arthur Carter acquired by assignment from James Q. Wallace S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 19, T. 1 N., R. 6 E., Maricopa County, Arizona, on January 17, 1919; final affidavit not yet filed; assessments and levies 1919 \$127.80; value \$10,000.00; total taxes and tax liens \$3,207.39.

Tract No. 7.

W. G. Ray acquired by assignment from James Q. Wallace N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 19, T. 1 N., R. 6 E., Maricopa County, Arizona, on January 17, 1919; assessments and levies 1919 \$136.156; final affidavit and payment made October 31, 1919; final certificate issued November 4, 1919; value \$10,000.00; total taxes and tax liens \$3,216.15.

Tract No. 8.

Wm. Irwin made Homestead Entry, Serial No. 02976, on December 15, 1903 for N. W. $\frac{1}{4}$ of Section 30, T. 1 W., R. 6 E., Maricopa County, Arizona; proof of residence made August 18, 1910; entryman assigned S. W. $\frac{1}{4}$ of N. W. $\frac{1}{4}$ of said section 30 to Anna Irwin, S. E. $\frac{1}{4}$ of said Section 30 to John L. Anderson, on January 19, 1919; assessments and levies for 1911, \$174.53; 1912, \$273.13; 1913 \$320.92; 1914 \$325.86; 1915 \$298.67; 1916 \$323.56; 1917 \$318.47; 1918 \$489.43 and 1919, \$705.79; total taxes assessed, \$3,228.36; final affidavit not made; final certificate not

issued; value of Lot 1, or N. W. $\frac{1}{4}$ of N. W. $\frac{1}{4}$ of and Section 30 retained by Wm. Irwin, \$10,000.00.

Tract No. 9.

Anna Irwin acquired by assignment from Wm. Irwin the S. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 30, T. 1 S., R. 6 E., Maricopa County, Arizona January 19, 1919; final affidavit not filed; final certificate not issued; value \$10,000.00; total taxes and tax liens, \$3,228.36.

Tract No. 10.

Gertrude Barkley acquired by assignment from Wm. Irwin the S. E. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 30, T. 1 S., R. 7 E., Maricopa County, Arizona, January 19, 1919; final affidavit not filed; final certificate not issued; value \$10,000.00; total taxes and tax liens, \$3,229.36.

Tract No. 11.

John L. Anderson acquired by assignment from Wm. Irwin the N. E. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 30, T. 1 S., R. 6 E., Maricopa County, Arizona, on January 19, 1919; final affidavit not filed; final certificate not issued; value \$10,000.00; total taxes and tax liens, \$3,228.36.

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Tract No. 12.

W. M. Beach acquired by assignment from Robert Brown N. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 7, T. 1 N., R. 6 E., Maricopa County, Arizona on January 7, 1919; the said Robert Brown made Homestead Entry, Serial No. 93534, on November 14, 1906 for S. E. $\frac{1}{4}$ of said Section 7; proof of residence made April 1, 1913; assessments and levies for 1918, \$200.14, 1919 \$471.98; total certificate issued June 16, 1919; value of said N. $\frac{1}{2}$ of N. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 7, \$5,000.00.

Tract No. 13.

Lucy Scarborough acquired by assignment from Robert Brown the S. $\frac{1}{2}$ of the N. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Section 7, T. 1 N., R. 6 E., Maricopa County, Arizona, on January 7, 1919; the said Robert Brown made Homestead Entry, Serial No. 93534 on November 14, 1906 for S. E. $\frac{1}{4}$ of said Section 7; proof of residence made April 1, 1913; final affidavit and payment made October 14, 1919; final certificate issued October 16, 1919; value of said S. $\frac{1}{2}$ of the N. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of said Section 7, \$5,000.00; total taxes and tax liens \$672.02.

Tract No. 14.

Robert Scott acquired by assignment from Robert Brown S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 7, T. 1 N., R. 6 E., Maricopa County, Arizona, on January 7, 1919; the said Robert Brown made Homestead Entry,

Serial No. 03534, on November 14, 1906, for S. E. $\frac{1}{4}$ of said Section 7; proof of residence made April 1, 1913; final affidavit and payment made June 12, 1919; final certificate issued June 16, 1919; value of said S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 7, \$10,000.00; total taxes and tax liens, \$672.02.

Tract No. 15.

Maud Scott Bazell acquired by assignment from Robert Brown the N. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Section 7, T. 1 N., R. 6 E., Maricopa County, Arizona, on January 7, 1919; the said Robert Brown made Homestead Entry, Serial No. 03534, on November 14, 1906, for S. E. $\frac{1}{4}$ of said Section 7; proof of residence made April 1, 1913; final affidavit and payment made June 19, 1919; final certificate issued October 16, 1919; value of said N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 7, \$10,000.00; total taxes and tax liens \$672.02.

Tract No. 16.

May Scott Chadwick acquired by assignment from Robert Brown the S. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Section 7, T. 1 N., R. 6 E., Maricopa County, Arizona, on January 7, 1919; the said Robert Brown made Homestead Entry, Serial No. 03534, on November 14, 1906, for S. E. $\frac{1}{4}$ of said Section 7; proof of residence made April 1, 1918; final affidavit and payment made June 19, 1919; final certificate issued June 21, 1919; value of said S. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 7, \$10,000.00; total taxes and tax liens \$672.02.

Tract No. 17.

Lee Hunsaker made Homestead Entry, Serial No. 03919, on October 31, 1907, for S. W. $\frac{1}{4}$ Section 1, T. 2 S., R. 5 E., Maricopa County, Arizona; proof of residence made July 14, 1914; Entryman assigned N. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 1 to Jean Lesueur, the S. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 1, to Edgar Hunsaker and the S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 1 to Wm. Dammann, on to-wit, January 18, 1919; assessments and levies for 1914, \$310.46; 1915 \$332.58; 1916 \$264.31; 1917 \$411.98; 1918 \$359.92; 1919 \$649.74; total taxes assessed \$2,328.99; final affidavit not filed; value of N. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 1 retained by Lee Hunsaker, \$7,000.00.

Tract No. 18.

Jean Lesueur acquired by assignment from Lee Hunsaker on, to-wit, January 18, 1919, the N. W. $\frac{1}{4}$ of the S. W. $\frac{1}{4}$ of Section 1, T. 2 S., R. 5 E., Maricopa County, Arizona; final affidavit not yet filed; value \$7,000.00; total taxes and tax liens \$2,328.99.

Tract No. 19.

Edgar Hunsaker acquired by assignment from Lee Hunsaker, on to-wit, January 18, 1919, the S. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of Section 25 T. 2 S. R. 5 E., Maricopa County, Arizona; final certificate not yet issued; value \$7,000.00; total taxes and tax liens \$2,328.99.

Tract No. 20.

William Danamanti acquired by assignment from Lee Hunsaker on, to-wit, January 18, 1919, the S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of Section 1, T. 2 S. R. 5 E., Maricopa County, Arizona; final certificate not yet issued; value \$7,000.00; total taxes and tax liens \$2,328.99.

Tract No. 21.

Jos. A. Locarnini acquired by assignment from Martha Love, widow of David Love, on November 24, 1915, the N. E. $\frac{1}{4}$ of Section 21, T. 1 S. R. 6 E., Maricopa County, Arizona; Homestead Entry made by David Love on April 9, 1908; Serial No. 01942; proof of residence made January 25, 1913; taxes and levies for 1919, \$254.44; final affidavit filed and payment made September 15, 1919; final certificate not yet issued; value \$10,000.00.

Tract No. 22.

Philip Buntman acquired by assignment from L. G. Knipe on, to-wit, July 1, 1919, S. W. $\frac{1}{4}$ of Section 17 T. 1 S. R. 6 E., Maricopa County; final affidavit not filed; value \$10,000.00; assessments and levies for 1914 \$85.60; 1915 \$82.75; 1916 \$40.45; 1917 \$41.84; total taxes assessed \$340.62.

Tract No. 23.

Josephine Derrick acquired by assignment from Gordon Hunsaker Lot 1, and S. E. $\frac{1}{4}$ N. E. $\frac{1}{4}$ of Section 1 T. 2 S. R. 5 E., Maricopa County, Arizona; proof of residence of said Gordon Hunsaker accepted August 23, 1913; assessments and levies for 1915 \$89.45; 1916 \$84.74; 1917 \$33.96; 1918 \$172.56; and 1919 \$148.20; total taxes assessed \$528.91; final affidavit filed and payment made October 14, 1919; final certificate issued October 18, 1918; value \$10,000.00.

Tract No. 24.

Harley D. Clark made Homestead Entry Serial No. 1639, May 21, 1903, for S. W. $\frac{1}{4}$ of Section 35 T. 1 S. R. 5 E., Maricopa County, Arizona; proof of residence, December 10, 1912; entry assigned on March 28, 1918, S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 35 to Columbus Haught; the N. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 35

to Henry Hought; the N. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 35 to Sammie H. Haught, and the S. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 35 to Sarah Haught; assessments and levies on said S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of said Section 35 for 1918 \$53.33, and 1919 \$165.66; total taxes assessed \$223.99; value \$10,000.00; final affidavit filed, to-wit: October 3, 1919; and final certificate issued October 10, 1919.

Tract No. 25.

Sarah Haught acquired by assignment from Harley D. Clark on March 28, 1918, the S. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of Section 35, T. 1 S. R. 5 E., Maricopa County, Arizona; assessments and levies for 1918 \$58.34; 1919 \$161.16; total taxes assessed \$219.50; final affidavit filed, to-wit: October 3, 1919; value \$10,000.00.

Tract No. 26.

Sammie Haught acquired by assignment from Harley D. Clark on March 28, 1918, the N. W. $\frac{1}{4}$ of Section 35, T. 1 S. R. 6 E., Maricopa County, Arizona; assessments and levies for 1918 \$58.34; 1919 \$165.66; total taxes assessed \$2,240.00; final affidavit filed and payment made, to-wit: October 3, 1919; final certificate issued October 10, 1919; value \$10,000.00.

Tract No. 27.

Henry Haught acquired by assignment from Harley D. Clark on March 28, 1918, the N. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of Section 35, T. 1 S. R. 5 E., Maricopa County, Arizona; assessments and levies for 1918 \$100.32; 1919 \$396.96; total taxes assessed \$397.28; final affidavit and payment made, to-wit: October 3, 1919; final certificate issued October 10, 1919; value \$10,000.00.

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Tract No. 28.

Charles N. Brass made Homestead Entry Serial No. 03920 on October 28, 1907, for S. E. $\frac{1}{4}$ of Section 24; T. 1 S. R. 5 E., Maricopa County, Arizona; proof of residence made on January 25, 1913; Entryman assigned N. W. $\frac{1}{4}$ of S. E. $\frac{1}{2}$ of said section 24 to Carolinn Armstrong on August 29, 1918, the S. W. $\frac{1}{4}$ of said Section 24 to Nellie Stiles on August 29, 1918; assessments and levies for 1913 \$391.96; for 1914 \$341.31, 1915 \$3021.56, 1916 \$2021.34, 1917 \$374.20, 1918 \$501.30 and 1919 \$299.90, total taxes assessed \$2,413.97; final certificate not yet issued; value of said N. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 24 \$10,000.00.

Tract No. 29.

Coralinn Armstrong acquired by assignment from Charles N. Brass on August 29, 1918, the N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 24,

T. 1 S., R. 5 E., Maricopa County, Arizona; final certificate not yet issued; value \$10,000.00; total taxes and tax liens \$2,413.97.

Tract No. 30.

Cora B. Brass acquired by assignment from Charles N. Brass on August 29, 1918, the S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 24, T. 1 S., R. 5 E., Maricopa County, Arizona; final certificate not yet issued; value \$10,000.00; total taxes and tax liens \$2,413.97.

Tract No. 31.

Nellie Stiles acquired by assignment from Charles N. Brass on August 29, 1918, the S. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 24, T. 1 S., R. 5 E., Maricopa County, Arizona; final certificate not yet issued; value \$10,000.00; total taxes and tax liens \$2,413.97.

Tract No. 32.

David W. Stall made Homestead Entry, Serial No. 9778 for S. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; proof of residence made December 22, 1909; Entryman assigned on June 7, 1917, the N. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of said Section 2, to Ira S.

Ayers, the S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 2, to Mary 28—Stall and the S. W. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of said Section 2, to

J. F. Stall; taxes and levies for 1915 \$269.98, 1916 \$181.92, 1917 \$269.98, 1918 \$250.00 and 1919 \$197.23; total taxes assessed \$1,159.93; value of N. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of said Section 2 \$10,000.00; final affidavit filed November 1, 1918; patent issued July 23, 1919.

Tract No. 33.

Harry Stall acquired by assignment from David W. Stall the S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona, on June 7, 1917; final affidavit filed and final certificate issued October 22, 1918; patent issued February 18, 1919; value \$10,000.00; total taxes and tax liens \$1,159.93.

Tract No. 34.

Ira S. Ayers acquired by assignment from David W. Stall on June 7, 1917, the N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; final certificate issued November 1, 1918; patent issued July 23, 1919; value \$10,000.00; total taxes and tax liens \$1,159.93.

Tract No. 35.

J. F. Stall acquired by assignment from David W. Stall on June 7, 1917, the S. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; final certificate issued, to wit, August 22, 1918; patent issued July 23, 1919; value \$10,000.00; total taxes and tax liens \$1,159.93.

Tract No. 36.

Geo. W. Burns and Mabel B. Burns acquired by assignment from Sarah Galpin, widow of Morenus J. Galpin, on April 2, 1916, the E. $\frac{1}{2}$ of N. W. $\frac{1}{4}$ of Section 23, T. 1 S., R. 5 E., Maricopa County, Arizona; Morenus J. Galpin made Homestead Entry No. 827, Serial No. 03838, for the N. W. $\frac{1}{4}$ of said Section 23 on May 24, 1907; proof of residence made September 21, 1910; final certificate issued July 13, 1917; patent issued July 26, 1918; taxes and levies for 1917 \$49.51 and 1918 \$232.97; total taxes \$282.48; value \$10,000.00.

Tract No. 37.

Charles F. Burns acquired by assignment from Sarah Galpin, widow of Morenus J. Galpin, on April 21, 1916, the S. W. $\frac{1}{4}$ of N. W. $\frac{1}{4}$ of Section 23, T. 1 S., R. 5 E., Maricopa County, Arizona; Morenus J. Galpin made Homestead Entry No. 827, Serial No. 03737, for the N. W. $\frac{1}{4}$ of said Section 23 on May 24, 1907; proof of residence made September 21, 1910; taxes and levies for 1917 \$126.57; 1918 \$130.77, and 1919 \$124.42; total taxes \$381.76; value \$10,000.00.

Tract No. 38.

Geo. W. Burns acquired on October 1, 1919, the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 23, T. 1 S., R. 5 E., Maricopa County, Arizona, from C. P. Kittle, who deraigned title from Morenus J. Galpin, who made Homestead Entry No. 827, Serial No. 03737, for the N. W. $\frac{1}{4}$ of said Section 23, on May 24, 1907; proof of residence made September 21, 1910; final certificate issued June 7, 1917; Patent issued March 6, 1918; taxes and tax levies \$176.08; value \$10,000.00.

Tract No. 39.

T. B. Steele made Homestead Entry for S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section 1, T. 1 N., R. 5 E., Maricopa County, Arizona; final affidavit not yet filed; taxes and levies for 1917 \$77.44; 1918 \$83.31 and 1919 \$48.72; total taxes \$209.47; value \$10,000.00.

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Tract No. 40.

Paul Baxter Beville acquired by assignment from John S. Harris on to wit, March 1, 1915, the N. W. $\frac{1}{4}$ of Section 35, T. 2 N., R. 6 E., Maricopa County, Arizona; final affidavit filed on May 27, 1919; final certificate issued May 29, 1919; taxes and levies for 1915 \$25.49, 1916 \$27.36, 1917 \$5.52, 1918 \$121.37, and 1919 \$29.59; total taxes \$219.33; value \$10,000.00.

Tract No. 41.

Mary Alice Beville acquired by assignment from W. E. Porter on April 3, 1917, the S. $\frac{1}{2}$ N. E. $\frac{1}{4}$ and N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$ of Section

32, and S. W. $\frac{1}{4}$ of N. W. $\frac{1}{4}$ of Section 33, T. 2 N., R. 6 E., Maricopa County, Arizona; which land was entered by Charles Davis as a Homestead on July 20, 1908, No. 02303, and additional Homestead, No. 09205, made February 28, 1910; final affidavit filed May 27, 1919; final certificate issued May 29, 1919; taxes and levies for 1918 \$191.73 and 1919 \$207.26; value \$10,000.00.

Tract No. 42.

Olive B. Parker acquired by assignment from James Bryant on January 13, 1919, the W. $\frac{1}{2}$ S. W. $\frac{1}{4}$, Section 8, T. 1 N., R. 6 E., Maricopa County, Arizona; proof of residence made January 29, 1916; final affidavit not yet filed; taxes and levies for 1917 \$68.43, 1918 \$60.25 and 1919 \$81.51; total taxes \$210.19; value \$10,000.00.

Tract No. 43.

James F. Sallady made Homestead Entry No. 03918 on October 30, 1907, for N. W. $\frac{1}{4}$ of Section 6, T. 2 S., R. 6 E., Maricopa County, Arizona; proof of residence made December 4, 1912; Entryman on to-wit, March 1, 1917, assigned the N. E. $\frac{1}{4}$, the N. W. $\frac{1}{4}$, the S. E. $\frac{1}{4}$ and the S. W. $\frac{1}{4}$ of said N. W. $\frac{1}{4}$ of said Section 6 to Wilford Ray, J. M. Ray, Jaon A. Ray and S. F. Ray; taxes and levies for the year 1914 \$113.95, 1915 \$325.59, 1916 \$272.91, 1917 \$215.36, 1918 \$244.82, and 1919 \$348.89; total taxes 31 \$1,521.52; final affidavit not yet filed; value of each 40 acres \$10,000.00.

Tract No. 44.

Herbert W. Sawyer made Homestead Entry No. 02186 on December 30, 1908, for S. W. $\frac{1}{4}$ of Section 21, T. 1 S., R. 6 E., Maricopa County, Arizona; proof of residence made January 25, 1913; Entryman assigned S. $\frac{1}{2}$ of said S. W. $\frac{1}{4}$ of said Section 21 on, to-wit: March 1, 1918, to Guy H. Sawyer; final affidavit not yet filed; value of N. $\frac{1}{2}$ of S. W. $\frac{1}{4}$ of said Section 21, \$10,000.00; taxes and levies for 1915 \$138.77; 1916 \$190.50; 1917 \$195.11; 1918 \$253.34; 1919 \$45.04; total taxes \$821.76.

Tract No. 45.

Guy H. Sawyer acquired by assignment from Herbert W. Sawyer on, to-wit: March 1, 1918, the S. $\frac{1}{2}$ of the S. W. $\frac{1}{4}$ of Section 21, T. 1 S., R. 6 E., Maricopa County, Arizona; final affidavit not yet made; total taxes and tax liens \$821.76; value \$10,000.00.

Tract No. 46.

J. Elbert Hunsaker made Homestead Entry No. 03916, on October 30, 1907, for N. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; proof of residence made December 29, 1913; Entryman assigned S. E. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of said Section 2 on Febru-

ary 24, 1919, to J. N. Skousen, and on same date assigned S. W. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of said Section 2 to Milo E. Ray, and on March 11, 1919, assigned N. W. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of said Section 2 to Grace Burton; taxes and levies for 1916, \$185.60; 1917, \$102.98; 1918, \$360.40, and 1919 \$270.86; total taxes \$1,219.84; final affidavit not yet filed; value of said N. E. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of said Section 2, \$10,000.00.

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Tract No. 47.

J. N. Skousen acquired by assignment from J. Elbert Hunsaker, on February 24, 1919, the S. E. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; proof of residence made December 29, 1913; final affidavit not yet filed; total taxes and tax liens \$1,219.84; value \$10,000.00.

Tract No. 48.

Milo E. Ray acquired by assignment from J. Elbert Hunsaker on February 24, 1919, the S. W. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; proof of residence made December 29, 1913; final affidavit not yet file; total taxes and tax liens \$1,219.84; value \$10,000.00.

Tract No. 49.

Grace Burton acquired by assignment from J. Elbert Hunsaker on March 11, 1919, the N. W. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Section 2, T. 2 S., R. 5 E., Maricopa County, Arizona; proof of residence made December 29, 1913; final affidavit not yet filed; total taxes and tax liens \$1,219.84; value \$10,000.00.

* * * * *

38 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

*The Answer of the Above-named Defendants to the Bill of Complaint
of the Above-named Plaintiffs.*

In answer to the said bill of complaint, the defendants Sam F. Webb, C. W. Cummins, L. M. Laney, J. G. Montgomery, J. W. Bradshaw, W. K. Bowen and C. W. Peterson, say as follows:

I.

The defendants admit that the defendant Sam F. Webb is Treasurer and ex officio Tax Collector, the defendant C. W. Cummins is the Assessor, the defendant L. M. Laney is the County Attorney, the defendant J. G. Montgomery is the Sheriff, and the defendants J. W. Bradshaw, W. K. Bowen and C. W. Peterson are the members of the Board of Supervisors, of the County of Maricopa, in the State of Arizona, and that they are the duly authorized officers entrusted by the laws of the State of Arizona with assessing, levying and collecting of state and county taxes under the laws of the State of Arizona upon property situated in said County of Maricopa.

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II.

The defendants admit that taxes for the years in the respective amounts and upon the respective parcels of land, as alleged in the plaintiff's bill of complaint, were duly and regularly assessed and levied by the officers of the County of Maricopa thereunto duly authorized by law; admit that the lands described and referred to in the plaintiff's bill of complaint became subject to entry under the general homestead law in or about the year 1872; admit that on July 17th, 1902, said lands were by the Secretary of the Interior, regularly withdrawn from all entries except homestead entries under the Act of June 17th, 1902; admit that on the 25th day of June, 1904, said lands were incorporated in that certain reclamation project known as the "Salt River Project"; admit that the plaintiff, and the other persons referred to in the plaintiff's bill of complaint as similarly situated, did make reclamation homestead entry of the respective tracts of land, did fully comply with the requirements of the general homestead laws and the reclamation homestead laws, did make proofs regarding such compliance, and did make assignments of portions, of their respective entries at the respective times and in the manner and form, all as alleged in the plaintiff's bill of complaint.

III.

The defendants allege that under and by virtue of the statutes of the United States in such cases made and provided, and the regulations duly made and promulgated thereunder, persons having made

homestead entries under the Reclamation Act may assign for a valuable consideration and may mortgage such entries or any legal subdivision thereof to other persons at any time after the filing by the entryman with the Commissioner of the General Land Office of satisfactory proof of residence, improvement and cultivation for the five years required by law, and after making proof do not have
40 to maintain further residence upon their said entries. That

likewise, after such proof has been made by said reclamation homestead entryman, the assignees of such entrymen do not have to maintain residence on the land so assigned to them, and may themselves lawfully sell and assign or mortgage the same.

The defendants further allege upon information and belief that as to each tract of land described or referred to in the plaintiff's bill of complaint, the entryman thereof had filed with the Commissioner of the General Land Office, satisfactory proof of residence, improvements and cultivation for the five years required by law, and said proof had been accepted by the proper land office officials, and notice of such acceptance duly issued, before any of the taxes complained of in the plaintiff's bill of complaint were assessed or levied thereon; and that by virtue of the premises, at the time of assessing and levying said taxes, the plaintiff and other persons similarly situated had a substantial and valuable and, as the defendants are informed and believe, a taxable, equity and interest in their respective reclamation homestead lands.

IV.

The defendants further allege upon information and belief that in assessing and levying the taxes complained of in the plaintiff's bill of complaint, the duly authorized officers intended to assess and levy, and did assess and levy, taxes upon and against only the respective equities in the lands described and referred to in the plaintiff's bill of complaint of the persons in whose name said property was assessed, and did not assess or levy or intend to assess or levy any taxes whatsoever upon or against any right, title or interest of the United States in said lands; and that none of the defendants have any intention to, or will, enforce, or make any effort to enforce, collection of any taxes upon any right, title or interest of the
41 United States in or to any of the lands described in the plaintiff's bill of complaint.

V.

That subsequent to the service of process upon the defendants in the above entitled cause and on, to wit, the 5th day of January, 1920, in order to make it doubly certain that there was no attempt to levy or collect any taxes upon the interest of the United States in any of the reclamation homestead lands described and referred to in the plaintiff's bill of complaint, the Board of Supervisors of Maricopa County, Arizona, being duly authorized by law to cause any errors in the tax records of the County to be corrected, did

duly and regularly pass and adopt a resolution worded as follows, to wit:

"Whereas, the Treasurer of Maricopa County has reported to the Board of Supervisors of Maricopa County that the assessments for taxation of certain lands within the Salt River Reclamation Project upon each tract of which the Government's notice of acceptance of proof of homestead residence, cultivation and improvements has issued prior to assessment, but for which no patents had issued prior to such assessment, as said assessments appear upon the record of his office are in such form that they might be construed as erroneously attempting to assess the interest of the United States Government in said tracts of land; and

Whereas, it has at all times been the intention of the Assessor, and all other officers having to do with the assessment and levying of taxes upon property in Maricopa County, to tax only the interest of the respective entrymen, or their assignees, in the lands embraced in said reclamation homesteads, and not to assess, levy or collect any taxes upon the interest of the United States Government in any of said lands;

Now, therefore, be it resolved by the Board of Supervisors of Maricopa County, that the Treasurer and Ex-Officio Tax Collector of Maricopa County, be, and he hereby is, directed to correct his records of all assessments and levies of taxes upon lands within the Salt River Reclamation Project made prior to issuance of patent but subsequent to issuance of notice of acceptance of proof of homestead residence, cultivation and improvements, by inserting in the records of said assessments and levies of taxes immediately preceding the description of the property assessed in each instance, the words

"Equity in," so that the records of said assessments and levies will show that only the equity of the entryman, or his assignees, in each instance is taxed; the said Board of Supervisors hereby disclaiming on behalf of Maricopa County and the State of Arizona any intention to assess, levy or collect any taxes upon the interest of the United States Government in said reclamation homestead lands, or any part thereof.

That immediately thereafter pursuant to the directions of said resolution the Treasurer and ex-officio Tax Collector of said Maricopa County did correct the tax records of said County accordingly, so that now the tax records of said County clearly show that only the equities of the plaintiff and other persons similarly situated in their respective reclamation homestead lands are taxed.

VI.

The defendants deny upon information and belief that the property against which the tax liens complained of in the plaintiff's bill of complaint are asserted, is, or at the time of the assessment thereof was, exempt from taxation by the State of Arizona under the Constitution or laws of the United States, or the Enabling Act whereby

the State of Arizona was admitted into the Union of the States, or at all.

VII.

The defendants admit that they intend to enforce by all lawful ways and means the collection of the taxes complained of in the plaintiff's bill of complaint against the respective equities of the plaintiff and other persons similarly situated, and that the proper officers of said County of Maricopa intend in the future, unless this Honorable Court should otherwise direct, to continue regularly to tax the equity and interest in said lands of said plaintiff and other persons similarly situated; but the defendants deny upon information and belief that their actions in assessing, levying and collecting taxes upon the equities and interests of said persons in their respective lands, would, if permitted, abridge any of the
43 privileges or immunities of the plaintiff, or others similarly situated, as citizens of the United States; deny upon information and belief that said acts or proceedings, if permitted, would abridge or deny to the plaintiff, or any of said other persons, the equal protection of the laws; and deny upon information and belief that the assessing, levying or collection of taxes upon the lands referred to in the plaintiff's bill of complaint, would or does in any manner wrongfully cloud or jeopardize the title of the plaintiff, or any of the other persons similarly situated, to their said lands, or in any manner injure or damage the plaintiff or any of said other persons.

VIII.

The defendants further say that at the times when the assessments complained of were made, the land described in the plaintiff's bill of complaint was virtually all under irrigation, in a high state of cultivation and highly productive of valuable crops, and the equity of each person assessed was of great value; and that the defendants are informed and believe that the present market value of the assignable interest and equity in each tract of land described in the plaintiff's bill of complaint is more than three hundred dollars (\$300.00) per acre.

IX.

And further answering the plaintiff's bill of complaint the defendants say that said bill of complaint fails to allege any matter of equity entitling the plaintiff, or any of the other persons therein referred to as similarly situated, to the relief prayed for therein, or to any relief at all; and particularly that it appears from said bill of complaint that the taxes therein complained of were assessed and levied upon each tract of land therein described and referred to, subsequent to due proof of homestead residence, cultivation and improvements by the entryman in whose homestead entry said tract
44 of land was embraced; and that the property so taxed was at the time of such taxation legally taxable.

Wherefore, the defendants pray to be hence dismissed with their reasonable costs and charges in this behalf wrongfully sustained.

(Signed)

L. M. LANEY,

*In Propria Persona and as
Solicitor for the Defendants.*

L. M. LANEY.

Business Address: 203 Walker Building, Phoenix, Arizona.

DISTRICT OF ARIZONA.

State of Arizona,

County of Maricopa, ss:

L. M. Laney, being first duly sworn upon oath deposes and says:

That he is one of the defendants in the above entitled cause; that he is the County Attorney of Maricopa County, State of Arizona and by virtue of his said office is attorney and solicitor for the other county officers named as defendants in said cause; that affiant has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge except as to matters therein stated to be alleged on information and belief, and as to those matters, he believes it to be true.

L. M. LANEY.

Subscribed and sworn to before me this 7th day of January, 1920.

HERMAN LEWKOWITZ [SEAL]

My commission expires May 5, 1920.

(Endorsements:) In Equity No. E-89 (Phoenix) (Phoenix, Maricopa County, State of Arizona). In the District Court of the United States for the District of Arizona. William Irwin, Plaintiff, vs. Sam E. Webb, County Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County Attorney, J. G. Montgomery, County Sheriff and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants Answer. Filed January 7, 1920, C. R. McFall, Clerk, by Clyde C. Downing, Deputy Clerk.

15 In the District Court of the United States for the District of
Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor;
L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff;
and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County
Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County.)

(State of Arizona.)

Motion to Strike Out Parts of Answer.

Now on this day comes the plaintiff and moves the Court that all
those portions of the Answer of the above named defendants, which
relate to the affirmative defense therein set up, being those portions
of said answer beginning with the word, "and", in line 15, page 3
thereof and extending to and including line 19 on page 5 thereof;
and beginning again with line 29, on page 5 of said answer, and
extending to and including line 11, on page 6 thereof; and begin-
ning again with line 23, on page 6 thereof, and extending to and
including line 2 on page 7 thereof", be stricken out for the reason
that the allegations therein contained fail to set forth matter suffi-
cient to disentitle the plaintiff to the relief sought in his bill her-
etofore filed in this suit, and for the reason that said portions of said
answer and each and all of them are incompetent, irrelevant and im-
material, and are insufficient in law to constitute any defense
46 to the bill of the plaintiff filed herein.

M. J. DOUGHERTY &
DOUGHERTY & DOUGHERTY.

Solicitors for Plaintiff.

M. J. DOUGHERTY,

Business Address: Mesa, Arizona;

DOUGHERTY & DOUGHERTY,

Business Address: Mesa, Arizona;

Solicitors for Plaintiff.

(Endorsements.) No. E-89 (Phoenix). In the District Court of
the United States for the District of Arizona. William Irwin, Plain-
tiff, vs. Sam F. Webb, County Treasurer; C. W. Cummins, County
Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County

Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants. In Equity. Received Copy of the within motion this 17th day of January, 1920. L. M. Laney, County Attorney, by R. A. Jarratt, Deputy Co. Attorney. Filed January 17, 1920, C. R. McFall, Clerk. By Clyde C. Downing, Deputy Clerk.

47 In the United States District Court for the District of Arizona.

(*Minute Entry of Date January 21, 1920.*)

No. E-90 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, etc., et al., Defendants.

It is ordered that this case be and the same is hereby set for trial on March 19th, 1920, at the opening of court on that day.

48 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Amended Motion to Strike out Parts of Answer.

Now on this day comes the plaintiff and moves the Court that all those portions of the Answer of the above named defendants which relate to the alleged right of the defendants to assess or levy taxes against the premises, involved and described in plaintiff's Complaint, previous to the making of final proof therefor, being those portions of said Answer, beginning with the word, "and", in line 15, page 3 thereof, and extending to and including line 20 of said page; and beginning with the word, "the", in line 13, paragraph 6, page 5, and extending to and including line 19 of said

page; and beginning again with line 29, on page 5 of said Answer, and extending to and including line 11, on page 6 thereof; and beginning again with line 23, on page 6 thereof and extending to and including the word, 'all' in line 27, on page 6 thereof," be stricken out from said answer for the reason that the allegations therein contained fail to set forth matter sufficient to disentitle the plaintiff to the relief sought in his bill heretofore filed in this suit, and for the reason that said portions of said answer, and each and all of them are incompetent, irrelevant, and immaterial, and are insufficient in law to constitute any defense to the bill of the plaintiff filed herein.

M. J. DOUGHERTY &
DOUGHERTY & DOUGHERTY,
Solicitors for Plaintiff.

M. J. DOUGHERTY,
Business address: Mesa, Arizona;

DOUGHERTY & DOUGHERTY,
Business address: Mesa, Arizona,
Solicitors for Plaintiff.

(Endorsements:) No. E-89 (Phoenix). In the District Court of the United States for the District of Arizona. William Irwin, plaintiff, vs. Sam F. Webb, County Treasurer; C. W. Cummins, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona. Defendants.

Amended motion to strike out parts of answer. Filed March 11, 1920, C. R. McFall, Clerk.

50 In the United States District Court for the District of Arizona.

(*Minute Entry of Date February 23, 1920.*)

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, etc., et al., Defendants.

Comes now, V. H. Harding, Esquire, attorney for the plaintiff, and L. M. Laney, Esquire, attorney for the defendants, and by consent of both parties in the above entitled cause:

It is ordered that hearing of arguments on motion to strike parts of the answer filed herein be and the same is hereby continued until March 8th, 1920.

51 In the United States District Court for the District of Arizona.

(Minute Entry at Date March 8, 1920.)

No. E-89 (Phoenix)

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, etc., et al., Defendants.

The matter of plaintiff's motion to strike parts of defendant's answer coming on regularly for hearing this day, come now, Messrs. Dougherty & Dougherty and F. H. Swenson, Esquires, Attorneys for the plaintiff, and L. M. Laney, Esquire, attorney for the defendants. Said motion was argued by respective counsel and submitted to the court and the Court having fully considered the same,

It is ordered that plaintiff's motion to strike parts of defendant's answer be and the same is hereby denied and the plaintiff is given until the 15th day of March within which to file reply to defendant's answer. Thereupon plaintiff, in open court, duly excepted to the ruling of the court upon said motion.

52 In the District Court of the United States for the District of Arizona

In Equity.

No. E-89 (Phoenix)

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bower, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants,

(Phoenix, Maricopa County, State of Arizona.)

Reply of the Above-named Plaintiff William Irwin, to the Answer of the Above-named Defendants.

William Irwin, the above named plaintiff, by leave of the Court first obtained, for his reply to the Answer of the above named defendants filed herein, says:

I.

That he denies that at the time of the assessing and levying of the taxes complained of, your orator, or any other person similarly

situated, had a taxable "equity" or interest in said Reclamation Homestead lands described in your orator's Bill of Complaint, heretofore filed in this cause, and alleges that the only right which your orator, or any other person similarly situated, had in said Homestead lands at the time of the assessment of the taxes complained of, was such right, or rights, as belonged to them under the United States Homestead Laws as Homestead entrymen.

II.

53 That he denies that the defendants, in assessing or levying the taxes complained of in the plaintiff's Bill of Complaint, assessed or levied taxes upon or against only the respective "equities" in the lands described and referred to in plaintiff's Bill of Complaint, but on the contrary, alleges that said defendants, during each and every year alleged in plaintiff's Bill of Complaint, did assess and levy the taxes complained of against said homestead lands and each and every tract described in Plaintiff's Bill of Complaint on file herein, in the same manner as said defendants assessed and levied taxes against lands in private ownership, and to and in which private persons had a vested interest, and prepared, made and kept a record of their proceedings, showing such assessment and taxation as herein alleged, and did file and institute and prosecute suits for the collection of taxes against various tracts of land described in plaintiff's said Bill of Complaint, previous to the bringing of this suit by your orator.

III.

That he denies that said defendants, or any of them, were duly authorized, or at all, by law or otherwise, to change the tax or assessment records of Maricopa County, State of Arizona, or to levy or assess any taxes against this plaintiff, or other persons similarly situated, or upon or against the homestead rights of this plaintiff, or other persons similarly situated, or to pass the alleged resolution set forth in defendant's Answer, on file in this cause, in the manner or at the time alleged, or at all; and your orator further denies that the alleged action of said defendants on January 5, 1920, was designed or constituted a correction of any errors in the tax records of Maricopa County, State of Arizona, and denies that said records contained any error in respect to the taxation of the lands mentioned in plaintiff's Bill of Complaint, and alleges that said
54 action of said defendants constituted a change of the tax records of said county and not a correction of any errors therein contained. Your orator further denies that said defendants had, or have, any right or authority under the laws of the State of Arizona, or otherwise, to levy or assess any taxes against any property of the plaintiff, or other persons similarly situated, in the manner, or at the time alleged in the said defendants' Answer.

IV.

Your orator denies that the tax records of Maricopa County, State of Arizona, now show that only the "equities" of the plaintiff, and other persons similarly situated, in their respective Reclamation Homestead lands are taxed, and alleges in this respect the tax records of said county show that the lands mentioned and described in plaintiff's Bill of Complaint are taxed in the same manner as any other real property in said county.

V.

Your orator further replying to said Answer says That neither the plaintiff, nor as he is informed and believes, do any other persons similarly situated, seek to avoid the payment of any construction, betterment or maintenance costs chargeable against any of the said land described in plaintiff's Bill of Complaint under the United States Reclamation Law, nor any tax assessed or levied against said lands by the authorized tax authorities of the State of Arizona, after the fixing of the Farm Unit by the Secretary of the Interior, and a reasonable opportunity afforded to your orator and other persons similarly situated, to comply with the United States Reclamation Homestead Law, as to cultivation, irrigation, improvement and the raising of necessary and required crops upon their respective homesteads; but alleges that until the fixing of the Farm

Unit by the Secretary of the Interior, and a reasonable time
55 thereafter for compliance with the United States Reclamation Law, as to such cultivation, irrigation, improvement and raising of crops, neither your orator or any persons similarly situated, could, or can, comply with said Reclamation Homestead Law, or establish proof of compliance therewith; and alleges that pending the fixing of said Farm Unit and the expiration of a reasonable time thereafter for compliance with said law, said lands were exempt from the taxes complained of, and that the assessing and levying of the said taxes previous to such time constituted an interference with the power of Congress to dispose of and make needful rules and regulations respecting the territory or other property belonging to the United States, under Article IV, United States Constitution, and was, is and constituted, an interference with the sovereignty of the United States in that said lands so taxed were, and until the making of final proof, remained the property of the United States Government, and as such was exempt from taxation.

VI.

That your orator, and all persons similarly situated, claim exemption from taxation by the county authorities of Maricopa County, State of Arizona, against the premises described in plaintiff's Bill of Complaint, filed herein, under the Reclamation Homestead Laws of the United States until the fixing of the Farm Unit within the Salt River Valley Project by the United States Secretary of the In-

terior, and a reasonable time thereafter for compliance with the Reclamation Homestead Law, and alleges that the acts of said defendants constitute and interference with, and an abridgment of the rights, privileges and immunities of your orator and persons similarly situated under Article IV and the Fourteenth Amendment to the Constitution of the United States, and the laws relating to transfer and sale of public lands.

56 Your orator in further reply says that the Constitution and laws of the State of Arizona relied upon, and particularly Chapters 3, 4, 5, 6 and 7 of the Revised Statutes of the State of Arizona, 1913, and amendments and supplements thereto, and invoked, applied, construed and relied upon by said defendants for the taxation of the said lands of your orator and persons similarly situated, are in contravention of the Constitution and statutes of the United States, particularly Article IV of the Constitution and the Fourteenth amendment thereof, the United States Reclamation Homestead Law, and the sovereign exemption of the United States Government property from taxation by state authorities.

Wherefore, plaintiff prays judgment according to the prayer of his Bill of Complaint.

M. J. DOUGHERTY &
DOUGHERTY & DOUGHERTY,
Solicitors for Plaintiff.

M. J. DOUGHERTY,
Business Address: Mesa, Arizona;
DOUGHERTY & DOUGHERTY,
Business Address: Mesa, Arizona,
Solicitors for Plaintiff.

DISTRICT OF ARIZONA,
State of Arizona.
County of Maricopa, ss:

M. J. Dougherty, being first duly sworn on oath, deposes and says:

That he is a resident of Mesa, Arizona, and is an attorney and counselor at law, and a resident of said state, duly admitted to practice in the District Court of the United States, of the District of Arizona; that he is one of the Solicitors for the plaintiff herein;

57 that he has read the foregoing Reply, and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Deponent further states that he is personally acquainted with the plaintiff herein; that the source of his information and the grounds of his belief, as to all matters in the foregoing Reply, are conversations with said plaintiff and said entrymen therein mentioned, examination of land office and county records and conversation with said defendants, and familiarity with the property described in said Reply; and that the reason why this verification is made by deponent, and not by the plaintiff herein, is that the plaintiff is not within the State of Arizona.

M. J. DOUGHERTY,

Subscribed and sworn to before me this 10th day of March, A. D. 1920.

My commission expires September 6, 1922.

WM. A. HARKINS,

Notary Public.

(Endorsements.) No. E-89 Phoenix. In the District Court of the United States for the District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County Attorney, J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants. Reply of the above named plaintiff, William Irwin, to the answer of the above named defendants. Filed March 11, 1920. C. R. McFall, Clerk.

28 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. LANEY, County Attorney; J. G. MONTGOMERY, County Sheriff, and J. W. BRADSHAW, W. K. BOWEN, and C. W. PETERSON, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Motion for Judgment on the Pleadings.

Now on this day comes the plaintiff, and moves the Court for judgment on the pleadings filed in this suit, that the defendant, Sam F. Webb, C. W. Cummins, L. M. Laney, J. G. Montgomery, J. W. Bradshaw, W. K. Bowen and C. W. Peterson, constituting the tax assessing, levying and collecting authorities of Maricopa County, State of Arizona, and each of them, and their successors in office, be perpetually enjoined and restrained from in any way or manner enforcing, or attempting to enforce, the collection of any taxes assessed or levied against the premises of the entrymen and their assigns described in plaintiff's complaint filed herein, prior to the establishment of the farm unit for the Salt River Project, Maricopa County, State of Arizona, to-wit, January 18, 1917, and for such reasonable time thereafter as might be and was necessary to enable this plaintiff and persons similarly situated to comply with the requirements of the United States Reclamation Homestead Law as to the reclamation, irrigation, growing of crops, reduction of farm area,

and the payment of the fees due the Government under the United States Homestead Law for the purchase of said lands, for the following reasons:

First. That the acts of said defendants in assessing, levying, collecting and attempting to collect taxes against said lands constitute an interference with and an abridgement of the rights, privileges and immunities of the plaintiff and persons similarly situated under Article IV of the United States Constitution and the Fourteenth Amendment to the constitution of the United States, and the laws of the United States relating to the transfer and sale of public lands of the United States.

Second. That the acts of said defendants in assessing, levying, collecting and attempting to collect taxes against said lands are asserted under Chapters 3, 4, 5, 6 and 7 of the Revised Statutes of the State of Arizona, 1913, and amendments and supplements thereto, and that said statutes are in contravention of the Constitution and statutes of the United States, particularly Article IV of the United States Constitution and the Fourteenth Amendment thereof, and the United States Reclamation Homestead law and the sovereign exemption of the United States Government property from taxation.

Third. That the acts of said defendants, if permitted, will cast a cloud upon the prospective titles of this plaintiff and persons similarly situated to their said lands contrary to Article IV of the United States Constitution and the Fourteenth Amendment thereof, and the United States Reclamation Homestead law.

Fourth. That the acts and threats of the said defendants in assessing, levying, collecting and attempting to collect said taxes are illegal and contrary to the Constitution and laws of the United States in such cases made and provided.

M. J. DOUGHERTY &
DOUGHERTY & DOUGHERTY,
Solicitors for Plaintiff.

M. J. DOUGHERTY,
Business Address: Mesa, Arizona.

DOUGHERTY & DOUGHERTY,
Business Address: Mesa, Arizona.

(Endorsements:) No. E-89 in equity. In the District Court of the United States, for the District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, et al., Defendants. Motion for Judgement on the Pleadings. Filed March 1, 1920. C. R. McFall, Clerk.

61 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff.

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor;
L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff,
and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County
Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Agreed Statement of Facts.

It is hereby stipulated and agreed by and between the plaintiff and the defendants in the above entitled cause, that said cause may be submitted to the Court for decision upon the following statement of facts:

I.

That the plaintiff, William Irwin, is and at the time of the institution of this suit was, a citizen of the State of California, and a resident of the City of Ontario, in the County of San Bernardino, and a resident of the City of Ontario, in the County of San Bernardino, in said State of California; that he brings this suit in his own behalf, and in behalf of the reclamation homestead entrymen and their assignees, and others similarly situated who may desire to avail themselves of the benefits thereof, set forth in plaintiff's Exhibit C, attached to his bill of complaint filed in this cause.

II.

That Sam F. Webb is the duly elected, qualified and acting County Treasurer; C. W. Cummins, the duly elected, qualified and acting County Assessor; L. M. Laney, the duly elected, qualified
62 and acting County Attorney; J. G. Montgomery, the duly elected, qualified and acting County Sheriff; and J. W. Bradshaw, W. K. Bowen and C. W. Peterson are the duly elected, qualified and acting County Supervisors of said County of Maricopa, in the State of Arizona; that each and all of said officials are residents of said County of Maricopa, and citizens of said State of Arizona, and are the persons authorized, designated and entrusted by the laws of the State of Arizona, with assessing, levying and collecting state and county taxes upon taxable property situated within said Maricopa County.

III.

That this suit arises under the constitution and laws of the United States, particularly Article IV and the XIVth amendment of said constitution of the United States, and the laws relating to the disposition and sale of public lands, and defining rights, privileges and immunities of homesteaders deriving title from the United States Government, and involves the right of said county officials to assess, tax, levy upon and sell for satisfaction of liens under the statutes of the State of Arizona, United States Government Homestead Lands, and to deliver a conveyance therefor and possession thereof before the issuance of Final Certificate or Patent therefor, as more fully hereinafter set forth, and is a suit between citizens of different States, and that the amount in controversy herein exceeds the sum of Three Thousand Dollars (\$3,000.00), exclusive of interest and costs.

IV.

That on or about the year A. D. 1872, the land, the taxation of which is in question in this suit, became subject to entry under the public land laws of the United States, including the general homestead law, to wit: the Act of May 20th, 1862, and acts amendatory thereof and supplementary thereto.

63

V.

That pursuant to authority in him vested by law, the Secretary of the Interior has prescribed rules and regulations relating to homestead entries under said general homestead law, which rules and regulations have been embodied in that pamphlet entitled "Suggestions to Homesteaders and Persons Desiring to make Homestead Entries", which said regulations are hereby referred to and made a part hereof as fully as if incorporated herein.

VI.

That in further pursuance of the authority in him vested by law, the Secretary of the Interior has prescribed rules and regulations relating to homestead entries within United States reclamation projects, which said rules and regulations have been embodied in a circular known as "General Reclamation Circular", which said circular is hereby referred to and made a part hereof as fully as if incorporated herein.

VII.

That pursuant to law and the rules and regulations of the Department of the Interior, when a person who has made homestead entry of land within a reclamation project, has made satisfactory proof to the appropriate United States Land Office of the residence, cultivation and improvements required by the ordinary provisions of the

homestead law, there is issued to him by the General Land Office, a notice of acceptance of such proof of which said notice the following is a specimen, to wit:

"Notice of Acceptance."

Received Jan. 26, 1914, U. S. Land Office, Phoenix, Arizona.

Department of the Interior,
General Land Office,
Washington, D. C., January 21, 1914.

Notice of Acceptance of proof of Homestead Residence, Cultivation and Improvements.

Mr. Samuel L. Brown,
Mesa, Arizona
(Through Register and Receiver, Phoenix, Arizona.)

64 SIR:

You are advised that the final proof submitted by you on Homestead Entry No. 10290, Serial No. 03911, made Oct. 25, 1907, subject to the Act of June 17, 1902 (32 Stat. 3883), for the N. W. $\frac{1}{4}$ S. E. $\frac{1}{4}$ Section 1, Township 1 N., Range 5 E., Meridian 6, & S. R., has been examined in this office and found to be sufficient as to the residence, cultivation and improvements required by the ordinary provisions of the homestead law. Further residence on the land is not required in order to obtain patent, and final certificate and patent will issue upon proof that at least one half of the irrigable area in the entry, as finally adjusted has been reclaimed, and that all the charges, fees and commissions due on account thereof and all water right charges have been paid to the proper receiving officer of the Government. If the entryman desires a patent before all water-right charges assessed against the land have been paid in full, a patent will be issued upon proof of reclamation and payment of all water-right charges due at the date of patent, and a lien will be retained under the Act of August 9, 1912 (37 Stat. 265) for unpaid charges.

Very respectfully,

C. M. BRUCE,
Assistant Commissioner.

If this entry does not conform to a farm unit as established by the Department, notice is hereby expressly given that the entry is subject to be conformed and its area thereby reduced. This conformation to a farm unit may be effected by assignment of the excess acreage.

VIII.

That homestead entrymen within reclamation project are precluded from making final proof and from receiving final certificate or patent until said Secretary of the Interior shall have determined the Farm Unit for such reclamation project.

IX.

That upon full compliance with the requirements of the reclamation acts and the regulations duly promulgated thereunder, "Final Certificate" is issued to the reclamation homestead entryman, or his assignees, of which certificate the following is a specimen, to wit:

"Department of the Interior,

United States Land Office, Phoenix, Arizona,

H. R. P.,

Serial No. 036446,

Receipt No. 2359,828,

Final Certificate,

Homestead, Act 6-17-02,

This certificate does not cover payment of water-right charges and the patent to be issued hereon will reserve to the United States a lien for the payment of such charges.

65

October 6, 1919.

It is hereby certified that, pursuant to the provisions of Section 2291, Revised Statutes of the United States, Gertrude F. Standage, c/o M. J. Dougherty, Mesa, Arizona, has made payment in full for Lot 4 or S. W. $\frac{1}{4}$ S. W. $\frac{1}{4}$ (Farm Unit "J") Section 31, Township 1 S., Range 4 E., G. & S. R. B. & Meridian, Arizona, containing 36.14 acres.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, that said Gertrude F. Standage shall be entitled to receive a Patent for the land above described if all then be found regular.

J. L. IRVIN,

Register.

NOTE.—A duplicate of this Certificate is issued to the claimant as notice of the acceptance of the proof and payment, and of the allowance of the entry by the Register and Receiver.

The original is forwarded to the General Land Office with the entry papers for approval by the Commissioner of the General Land Office and issuance of patent.

The duplicate copy forwarded to the claimant should be held until notice of issuance of patent is received.

In all correspondence concerning the entry in connection with

which this certificate is issued, refer to the name of the Land Office and the Serial Number noted hereon

Posted _____ in Vol. _____ by _____, Div. "O."

Approved _____

By _____
Director

X.

That the lands described in the plaintiff's bill of complaint are situated in Maricopa County, State of Arizona; that on the 17th day of July, 1902, said lands were by the Secretary of the Interior withdrawn from all entries except homestead entries under the Act of June 17, 1902, and acts amendatory thereof and supplementary thereto, and the regulations promulgated thereunder and that thereafter, on the 25th day of June, 1904, said lands were incorporated in that certain reclamation project established under and by virtue of said Act of June 17, 1902 and Acts amendatory thereof and supplementary thereto, which said project was designated the "Salt River Project."

XI.

66 That the plaintiff and others similarly situated, homestead entrymen, as set forth in plaintiff's Exhibit C, attached to this bill of complaint, made reclamation homestead entry of the respective tracts of land; at all times to the present date fully complied with the requirements of the general homestead laws; made proofs regarding such partial compliance; and made assignments of portions of their respective entries, all at the respective times and in the manner and form alleged in plaintiff's bill of complaint, and particularly set forth in said Exhibit C thereto attached; that the assignees of said entrymen have also complied as far as possible up to the present date, with the requirements of said reclamation acts and the rules and regulations promulgated thereunder; that taxes for the years, in the respective amounts and upon the respective parcels of land, all as set forth in the said Exhibit C, attached to the plaintiff's bill of complaint, were assessed and levied by the officers of the County of Maricopa, State of Arizona, whose duty it was to assess and levy taxes upon property in said Maricopa County; that in said Exhibit C, attached to plaintiff's bill of complaint, where the words "proof of residence" occur in the data there given concerning each tract of land said words mean and have reference to the proof by the entryman of the homestead residence, cultivation and improvements required by the provisions of the General Homestead Law.

XII.

That thereafter each year during the continuance of the territorial status of said State of Arizona, and following the admission of said territory as a State into the Federal Union, said County and State

authorities duly and annually assessed and levied taxes against said premises for each and every one of said years; that said taxes
67 were thereafter duly entered upon the public tax records of Maricopa County, State of Arizona, by the said authorities and under and by virtue of the laws of the State of Arizona duly declared to be a lien upon said lands.

XIII.

That all the taxes complained of in the plaintiff's bill of complaint were assessed and levied at a time subsequent to the issuance by the Commissioner of the General Land Office of the "notice of acceptance of proof of homestead residence, cultivation and improvements" under the ordinary provisions of the general homestead law, a specimen of which notice is set forth in paragraph numbered VII hereof, but prior to the payment of the \$1.50 fee due the United States Government for each legal sub-division of said lands, prior to complete compliance with the Reclamation Homestead Law requirements or the issuance of "Final Certificate" thereof, of which the specimen is set forth in paragraph numbered IX hereof, and prior to the issuance of patent for the land in question; that the assessments of said taxes upon some of said tracts of land were made as early as the year 1911, but that no assessments or levies of taxes were made upon any of said tracts of land, or any of the original entries from which any of said tracts of land were assigned, at any time prior to the issuance of the forementioned notice of acceptance of proof of homestead residence, cultivation and improvements, under the General Homestead Law. That the details of the assessment of said taxes upon the tracts of land described and referred to in the plaintiff's bill of complaint, as said assessments now appear upon the tax books of said Maricopa County, are contained in those certain "Back Tax Bills" which are in evidence in this cause and marked defendant's Exhibit —, which said Back Tax Bills are hereby referred to and made a part of this statement of facts the same as if they were fully incorporated herein.

XIV.

That in assessing and levying taxes upon said reclamation homestead lands, the officers of said Maricopa County described the same by legal subdivisions and assessed the same in the same manner and at the same value as patented lands, subject to the same amount of United States Reclamation Project charges; that the records of such assessments were made and kept in the regular and usual way upon the assessment and tax records of said Maricopa County, and that as to nine (9) of the tracts of land described in the plaintiff's bill of complaint, suits were filed in the Superior Court of Maricopa County, State of Arizona, for the collection of said taxes, including among said suits, a suit against the plaintiff herein for the collection of the taxes against his land herein complained of; and that

that certain complaint in which the State of Arizona is plaintiff and Walter H. Harris and Paul Baxter Beville are defendants, is true and correct specimen of the type of complaint so filed by said county authorities, as aforesaid. That in levying taxes upon said reclamation homestead lands and in so filing suit to enforce collection of said taxes, the tax officials of said Maricopa County at all times have claimed not to tax or attempt to enforce collection of taxes against any right, title, lien or interest of the United States of America, in or to said lands, or any part thereof, nor to interfere with the lien reserved by the United States Government on account of the reclamation of said lands; and that the defendants claim they will not in the future attempt to tax or enforce the collection of taxes against any interest in any of the lands described in the plaintiff's bill of complaint, other than the interest and equity of the homestead entrymen, or their assigns.

XV

That on the 5th day of January, 1929, and after the service of process upon the defendants in the above entitled cause, but before the defendants made answer therein, the Board of Supervisors of said Maricopa County, State of Arizona, duly passed and adopted a resolution, worded as follows, to wit:

"Whereas the Treasurer of Maricopa County has reported to the Board of Supervisors of Maricopa County that the assessments levied on certain lands within the Salt River Reclamation Project upon each tract of which the Government's notice of acceptance of proof of homestead residence, cultivation and improvements has dated prior to assessment, but for which no patents had issued prior to such assessment, as said assessments appear upon the records of his office are in such form that they might be construed as erroneously attempting to assess the interest of the United States Government in said tracts of land; and

Whereas, it has at all times been the intention of the Assessor and all other officers having to do with the assessment and levying of taxes upon property in Maricopa County, to tax only the interest of the respective entrymen, or their assigns, in the lands embraced in said reclamation homesteads, and not to assess, levy or collect any taxes upon the interest of the United States Government in any of said lands;

Now, therefore, be it resolved by the Board of Supervisors of Maricopa County, that the Treasurer and Ex-Officio Tax Collector of Maricopa County be, and he hereby is, directed to correct his records of all assessments and levies of taxes upon lands within the Salt River Reclamation Project made prior to issuance of patent but subsequent to issuance of notice of acceptance of proof of homestead residence, cultivation and improvements, by inserting in the records of said assessments and levies of taxes immediately preceding the description of the property assessed in each instance, the word "Equity in", so that the records of said assessments and levies will show that only the equity of the entrymen, or his assigns, in each

ance is taxed; the said Board of Supervisors hereby disclaiming on behalf of Maricopa County and the State of Arizona any intention to assess, levy or collect any taxes upon the interest of the United States Government in said reclamation homestead lands, or any part thereof.

That immediately upon the passage of said resolution and pursuant to the directions thereof, the Treasurer and Ex-Officio Tax Collector of said Maricopa County did insert immediately preceding each description of reclamation homestead lands upon which no final certificate had issued, the words "Equity in".

XVI.

That the defendants began their present respective terms of office on January 1, 1919; that the present term of office of said County Assessor is his first term of office; that said County Treasurer and Ex-Officio Tax Collector has held such office continuously since January 1st, 1917; that the defendant W. K. Bowen has been a member of the Board of Supervisors of Maricopa County continuously since the month of August, 1915; that the defendant C. W. Peterson has been a member of said Board of Supervisors continuously since January 1, 1915; and that J. W. Birdshaw has been a member of said Board of Supervisors continuously since January 1, 1917.

XVII.

That on the 18th day of January, 1917, the Secretary of the Department of the Interior of the United States established the farm units within the Salt River Project under said Reclamation Act of June 17th, 1902, and the regulations issued thereunder at forty acres and ordered and required all homestead entrymen within two years from the date of such establishment of farm units to conform their entries to such farm units.

XVIII.

That the plaintiff, and said similarly situated homestead entrymen, and their assigns, claim possession to and the right to perfect title to their respective tracts of land described in Exhibit C attached to the plaintiff's bill of complaint, under the laws of the United States governing homesteads in reclamation projects, and that the defendants claim authority to assess and levy taxes under the laws of the State of Arizona upon and against all the right, title and interest of said entrymen, and their respective assigns, in and to said lands; to create liens upon said interests of said entrymen, or their assigns, and to sell and convey said interests to satisfy said liens, and to deliver conveyances and possession of said lands to the purchasers thereof. That the defendants are prepared to, and unless restrained by order of the Court will in the future assess and levy

taxes upon the equity and interest of said entrymen, or their assigns, in said reclamation homestead lands, and will institute suits
71 for the collection of said taxes, unless the same are voluntarily paid, and will sell said interests and equities in said lands for the satisfaction of the tax liens created by them, and will deliver deeds conveying to the purchasers thereof the interests and equities of said entrymen, or their assigns, pursuant to the provisions of the statutes of the State of Arizona in such cases made and provided. That plaintiff claims that the taxes complained of are assessed against, levied upon and constitute a lien upon the homestead lands described in plaintiff's complaint.

XIX.

That the premises of the plaintiff are of the value of more than Ten Thousand Dollars (\$10,000.00), and that the total value of the forty-nine (49) tracts of land described and referred to in the plaintiff's bill of complaint, is in excess of Four Hundred Eighty-eight Thousand Dollars (\$488,000.00); that the total amount of taxes so assessed and levied as aforesaid, which are claimed by defendants to be a lien upon the equity and interest of the plaintiff in his premises described in his bill of complaint, is the sum of Three Thousand Two Hundred Twenty-eight and 36/100 Dollars (\$3,228.36); it being understood, however, that a large portion of said taxes were levied upon the entire one hundred sixty acre entry of the plaintiff and others similarly situated before they had assigned portions thereof, as set forth in Exhibit C, attached to his bill of complaint; that the total taxes assessed against the said equities and interests of the persons assessed in the forty-nine (49) tracts of land described in the plaintiff's bill of complaint, is in excess of Twenty-four Thousand Eight Hundred Eleven and 18/100 Dollars (\$24,811.18), exclusive of interest and costs.

XX.

That neither the plaintiff nor any of the persons similarly situated seek to avoid the payment of any construction, betterment
72 or maintenance costs chargeable against any of the lands described in plaintiff's bill of complaint under the United States Reclamation Law; nor do they claim they are seeking to avoid any tax duly assessed or levied against said lands by the authorized tax authorities of the State of Arizona, after the fixing of the farm unit by the Secretary of the Interior and a reasonable opportunity thereafter afforded to make final proof under the United States Reclamation Homestead Law as to cultivation, irrigation, improvement and the raising of necessary and required crops upon their respective homesteads. Plaintiff and those similarly situated claim that neither the plaintiff nor any persons similarly situated are seeking to avoid taxation by delay in the making of final proof. That no complaint is made as to excessiveness of the taxes involved. That at all times when the taxes complained of were assessed the valua-

tions placed for purposes of taxation upon the reclamation homestead lands assessed were in each instance an amount not to exceed the then cash value of the rights of the holder of said lands, which rights might be assigned pursuant to the provisions of the Reclamation Act and the rules and regulations embodied in the General Reclamation Circular; that during the years for which the taxes complained of were assessed it has been a common practice among homestead entrymen similarly situated to the plaintiff, and the assignees of such entrymen, to assign for the full value of their rights thereto the whole or parts of their said reclamation homestead lands pursuant to the provisions of law and the Rules and Regulations of the Department of the Interior; that as to the land described in Plaintiff's Exhibit C, attached to his bill of complaint, approximately but not less than one-half of each tract thereof as it was assessed, before being taxed by the county authorities, had been cleared of brush, trees

and other encumbrances, provided with sufficient laterals, except for changes incidental to reduction to farm units, for its effective irrigation, graded and otherwise put in proper condition for irrigation and crop growth, planted, cultivated and irrigated under the Salt River Reclamation Project, and had had average crops grown thereon. That in the majority of instances previous to the year 1919, the assessments were against eighty acre and one hundred sixty acre tracts of land and said lands were then farmed in units of the area of the original entries.

XXI.

That the papers and documents referred to in this statement of facts, to-wit: "Suggestions to Homesteaders and Persons Desiring to Make Homestead Entries", "General Reclamation Circular", Specimen of "Notice of Acceptance of Proof of Residence, Cultivation and Improvements under General Homestead Laws", "Final Certificate", "Exhibit C" (attached to the plaintiff's bill of complaint) "Complaint in the case of the State of Arizona, Plaintiff, vs. Walter H. Harris, and Paul Baxter Beville", were regularly offered in evidence by the plaintiff herein and received in evidence without objection and the same are to be considered with like force and effect as if fully set forth in this agreed statement of facts; and also that the above mentioned "Back Tax Bills" were regularly introduced in evidence by the defendants, and may be considered the same as if they were fully set forth herein.

Dated, at the City of Phoenix, State of Arizona, this 12th day of March, 1920,

M. J. DOUGHERTY AND
DOUGHERTY & DOUGHERTY &
F. H. SWENSON,

Solicitors for Plaintiff,

I. M. LANEY,

Solicitor for Defendants,

[Endorsements.] In Equity. No. E-89 (Phoenix). (Phoenix, Maricopa County, State of Arizona.) In the District Court of the United States for the District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County Attorney, J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants. Agreed Statement of Facts. Filed March 13, 1920. C. R. McFall, Clerk, by Clyde C. Downing, Deputy Clerk.

71 & 75 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. LANEY, County Attorney; J. G. MONTGOMERY, County Sheriff, and J. W. BRADSHAW, W. K. BOWEN, and C. W. PETERSON, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Decree.

This cause came on to be heard at the special February, 1920, term of this court and was argued by counsel and submitted to the court for decision upon the pleadings and the agreed statement of facts filed herein, and thereupon upon consideration thereof it was ordered, adjudg'd and decreed as follows, viz:

That the plaintiff's bill of complaint herein be and the same is hereby dismissed upon the merits.

Dated this 13th day of March, A. D., 1920.

(Sgd.)

DAVID P. DYER,

Judge.

(Endorsements.) In the District Court of the United States for the District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County Attorney, J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants. In Equity. No. E-89 (Phoenix). (Phoenix, Maricopa County, State of Arizona.) Decree. Filed March 13, 1920, C. R. McFall, Clerk. By Clyde C. Downing, Deputy Clerk.

76 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Appeal and Allowance.

The above named plaintiff, William Irwin, conceiving himself aggrieved by the decree rendered and entered in the above entitled cause on the 13th day of March, A. D. 1920, does hereby appeal from said decree to the Supreme Court of the United States for the reasons set forth in the assignment of errors filed herewith and he prays that his appeal be allowed and that citation be issued as provided by law and that a transcript of the record proceedings and documents upon which said decree was based duly authenticated, be sent to the Supreme Court of the United States sitting at Washington, under the rules of such court in such cases made and provided.

And your petitioner further prays that the proper order relating to the required security to be required of him be made.

M. J. DOUGHERTY &
DOUGHERTY & DOUGHERTY AND
F. H. SWENSON,

Solicitors for Plaintiff.

Appeal allowed upon giving bond as required by law for the sum of Five Hundred Dollars.

(Signed)

DAVID P. DYER,

Judge.

(Endorsements:) In the District Court of the United States for the District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, et al., Defendants. In Equity. No. E-89 Phoenix. (Phoenix, Maricopa County, State of Arizona.) Appeal and Allowance. Filed April 20, 1920. C. R. McFall, Clerk. March 13, 1920, Copy of within received by me this day. L. M. Laney, Solicitor for Defendant.

77 In the District Court of the United States for the District of Arizona.

In Equity,

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor;
L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff,
and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County
Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Assignment of Errors.

Now comes the plaintiff in the above entitled cause and files the following assignment of errors upon which he will rely upon his prosecution of the appeal in the above entitled cause from the decree made by this Honorable Court on the 13th day of March, 1920.

I.

That the United States District Court for the District of Arizona erred in not finding, holding, adjudging and decreeing that United States homestead lands entered under the United States Ordinary Homestead Law, (Act of May 20, 1862, Ch. 75, 12 Stat. 1, 392 and amendments thereof and supplements thereto, sections 2289-2304, inclusive, United States Revised Statutes), and the United States Reclamation Homestead Law, (Act of June 17, 1902, Ch. 1093, Sec. 1-32, Stat. 388, and amendments thereof and supplements thereto) and involved in this suit, are exempt from taxation by the state and county tax officials of Maricopa County, State of Arizona, under Clauses 1 and 18, Section 8, Article I, and paragraph 2, Article VI, and Clause 2, Section 3, Article IV, of the United States Constitution,

78 prior to compliance with said homestead laws by the homestead entrymen of said lands as to the payment of fees due the United States Government for said lands, cultivation, irrigation, reclamation and improvement, and the making of final proof therefor.

II.

That the United States District Court for the District of Arizona erred in finding, holding, adjudging and decreeing that the rights of this plaintiff and persons similarly situated in and to their said respective homestead lands, described in the plaintiff's bill of com-

plaint and the said lands are, and were assessable or taxable for State or County taxes by the defendant county taxing officials of Maricopa County, State of Arizona, before the fixing of the Farm Unit by the Secretary of the Interior for the Salt River Project, in which said lands lie, and before affording the plaintiff, and persons similarly situated, an opportunity or reasonable time after the fixing of said Farm Unit to comply with, and before compliance, by plaintiff and persons similarly situated, with the requirements of the United States Ordinary Homestead Law, (Act of May 20, 1862, Ch. 75, 12 Stat. L. 392, and amendments thereof and supplements thereto, Sections 2289-2301 inclusive, United States Revised Statutes) or with the requirements of the United States Reclamation Homestead Law, (Act of June 17, 1902, Ch. 1093, Sec. 1-32 Stat. 388, and amendments thereof and supplements thereto) as to payment of fees due the United States Government for said lands, reclamation, irrigation, cultivation or improvement thereof, and while the title to said lands was vested in and while such lands belonged to the United States Government; and in finding, holding, adjudging and decreeing that said acts of said defendant county officials, and the said assessing and taxing of the rights of said plaintiff and persons similarly situated, and the said assessing and taxing of said homestead lands

of plaintiff and those similarly situated, were not in derogation of the sovereign exemption of the United States Government property from taxation, or contrary to, or in contravention of Clauses 1 and 18, Section 8, Article I, and Par. 2, Article VI, and Clause 2, Section 3, Article IV, of the United States Constitution.

III.

That the United States District Court for the District of Arizona erred in finding, holding, adjudging and decreeing that Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments and supplements thereto, as applied, administered and justified by said defendant taxing officials of Maricopa County, State of Arizona, in the taxation of United States Homestead lands before compliance with the United States Ordinary Homestead Law, (Act of May 20, 1862, Ch. 75, 12 Stat. L. 392, and amendments thereof and supplements thereto, Sections 2289-2301, inclusive, United States Revised Statutes) and before compliance with the United States Reclamation Homestead Law, (Act of June 17, 1902, Ch. 1093, Sec. 1-32 Stat. 388, and amendments thereof and supplements thereto) as to payment of fees due the United States Government for said lands, reclamation, irrigation, cultivation and improvement thereof by this plaintiff, and persons similarly situated, are not in conflict with Clauses 1 and 18, Section 8, Article I, and Par. 2, Article VI, and Clause 2, Section 3, Article IV, of the United States Constitution.

IV.

That the United States District Court for the District of Arizona erred in finding, holding, adjudging and decreeing that the defend-

ants could by *ex parte* resolution, or otherwise, alter or change retroactively for a period of ten years, and antedating the inception of their official incumbency, the assessment or tax records of Maricopa County, State of Arizona, made by themselves or their predecessors in office, after the institution of this suit, and the service of process upon the defendants and after the transfers of said lands to bona fide claimants under the said county records as originally made, and after the institution of suits in the Superior Court of the State of Arizona for the collection of said taxes theretofore assessed and levied upon United States homestead lands and upon said records as originally made and kept; and in finding, holding, adjudging and decreeing that said alterations and changes constitute due process of law, and that said acts of said defendants in so altering and changing said records are not and were not in derogation of, and in denial of the rights, privileges and immunities of the plaintiff and persons similarly situated as citizens of the United States or contrary to, or in contravention of, Section 1 of the 14th Amendment to the Constitution of the United States,

V.

That the United States District Court for the District of Arizona erred in finding, holding, adjudging and decreeing that the rights of this plaintiff, and persons similarly situated in or to their respective United States Homestead lands, or that said lands are assessable or taxable by the county officials of Maricopa County, State of Arizona under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, previous to and before compliance with the requirements of the United States Ordinary Homestead Law (Act of May 20, 1862, Ch. 75, 12 Stat. 1, 392, and amendments thereof and supplements thereto, Sections 2289-2301, inclusive, United States Revised Statutes), and the Reclamation Homestead Law (Act of June 17, 1902, Ch. 1093, Sec. 1-32 Stat. 388, and amendments thereof and supplements thereto), as to payment of fees due the United States Government for said lands, reclamation, irrigation, cultivation or improvement thereof, and while the title to said lands was vested in, and while such lands belonged to the United States Government, and that said assessments and taxation are not in derogation of the sovereign exemption of the United States Government property from taxation or contrary to, or in contravention of, Clauses 1 and 18, Section 8, Article 1, and paragraph 2, Article VI, and Clause 2, Section 3, Article IV of the United States Constitution.

VI.

That the United States District Court for the District of Arizona erred in holding, finding, adjudging and decreeing that the defendants by *ex parte* resolution of the Board of Supervisors of Maricopa County, State of Arizona, adopted after the expiration of the time for levying taxes under the statutes of the State of Arizona,

could assess or levy taxes against the rights of the plaintiff, and persons similarly situated, to homesteads entered under the United States Ordinary Homestead Law (Act of May 20, 1862, Ch. 75, 12 Stat. L. 392, and amendments thereof and supplements thereto, Sections 2289-2301 inclusive, United States Revised Statutes), and the Reclamation Homestead Law (Act of June 17, 1902, Ch. 1093, Sec. 1, 32 Stat. 388, and amendments thereof and supplements thereto), previous to compliance with the said United States Homestead Laws as to cultivation, irrigation, reclamation, improvement or the payment of fees; and that said assessment and levy of taxes as aforesaid constitute due process of law and are not in derogation of or in denial of the rights, privileges and immunities of the plaintiff, and persons similarly situated, as citizens of the United States or contrary to or in contravention of Section 1, of the 14th amendment of the United States Constitution.

VII.

That the United States District Court for the District of Arizona erred in denying the plaintiff's motion to strike out the designated portions of defendant's answer, because said portions of said answer are irrelevant, incompetent and immaterial, and fail to state sufficient facts to disentitle the plaintiff to the relief prayed for the reasons:

First. Said portions of said answer consist of allegations and assertions by said defendants of their right as taxing officials of Maricopa County, State of Arizona, to assess taxes upon, levy taxes upon, create a tax lien thereon, and to sell for the satisfaction of said tax lien, under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, United States homestead lands before compliance with the United States Ordinary Homestead Law (Act of May 20, 1862, Ch. 75, 12 Stat. L. 392, and amendments thereof and supplements thereto, Sections 2289-2301, inclusive, United States Revised Statutes), and the Reclamation Homestead Law (Act of June 17, 1902, Ch. 1093, Sec. 1, 32 Stat. 388, and amendments thereof and supplements thereto), as to payment of fees due to the United States Government, reclamation, irrigation, cultivation and improvement thereof, by the entrymen of said lands; and while the title to said lands was and is vested in, and while such lands belonged to the United States Government in derogation of the sovereign exemption of United States Government property and contrary to and in contravention of Clauses 1 and 18, Section 8, Article I, and paragraph 2, Article VI of the United States Constitution.

Second. Said portions of said answer of the defendants are allegations and assertions of the right of said defendants as taxing officials of Maricopa County, State of Arizona, to assess taxes upon, levy taxes upon, create a tax lien thereon, sell for the satisfaction of said tax lien and deliver possession thereof under the Revenue Laws of

the State of Arizona, particularly Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, supplements thereto and amendments thereof, United States Homestead lands before compliance with the Ordinary Homestead Law as to payment of fees due the United States Government, irrigation, reclamation, cultivation or improvement by the entrymen thereof, contrary to and in contravention of Clause 2, Section 3, Article IV of the United States Constitution.

Third. That said portions of said answer consist of allegations and assertions by the said defendants of their right and authority under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, to assess and levy taxes against the rights of the plaintiff and persons similarly situated in their respective United States Homesteads retroactively for a period of ten years by an ex parte resolution, to create liens thereon, to sell for the satisfaction of said tax liens and deliver possession of said homesteads after the time for the assessment of taxes had expired under said Statutes of the State of Arizona without due process of law, and in derogation of and in denial of the rights, privileges and immunities of the plaintiff and persons similarly situated, as citizens of the United States contrary to, and in contravention of Section 1 of the 14th Amendment to the United States Constitution.

Fourth. That said portions of said answer consist of allegations and assertions by the said defendants of their right to tax the homestead rights of this plaintiff and other persons similarly situated under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, before compliance with the United States Ordinary Homestead Law, and the Reclamation Homestead Law as to cultivation, irrigation, reclamation, improvement or the payment of fees, and that
84 said statutes as construed, administered and applied by said portions of said defendants' answer are contrary to and in conflict with Clauses 1 and 18, Section 8, Article I, and paragraph 2, Article VI, and Clause 2, Section 3, Article IV of the United States Constitution.

Fifth. That said portions of said answer consist of allegations and assertions by the said defendants of their right and authority under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, to alter and change retroactively for a period of ten years by ex parte resolution, the assessment and tax records of Maricopa County, State of Arizona, as made and kept by themselves and their predecessors in office, after the institution of this suit, and the service of process upon the defendants, and after the transfers of said lands to bona fide claimants under the records as originally made, and after the institution of suits in the Superior Court of the State of Arizona for the collection of said taxes theretofore assessed and levied upon the said United States homestead lands involved herein and upon said records

as originally made and kept, without due process of law and in derogation of, and in denial of the rights, privileges and immunities of the plaintiff and persons similarly situated as citizens of the United States contrary to, and in contravention of, Section 1 of the 14th Amendment to the United States Constitution.

Sixth. That said portions of said answer consist of allegations and assertions by said defendant of their intent and design and their alleged right and authority under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, to cast a cloud upon the prospective titles of the plaintiff, and persons similarly situated, to United States homestead lands entered by them, by assessment of taxes upon, the levying of taxes upon, the creation of tax liens thereon, and the selling thereof for the satisfaction of said tax liens so created, contrary to and in conflict with Clause 2, Section 3, Article IV of the United States Constitution.

VIII.

That the United States District Court for the District of Arizona erred in denying plaintiff's amended motion to strike out designated portions of the defendants' answer for the reasons stated in plaintiff's seventh assignment of errors.

IX.

That the United States District Court for the District of Arizona erred in denying plaintiff's motion for judgment on the pleadings filed in this suit for the reasons:

First. That the answer of said defendants on file herein admits each and every material allegation of fact set forth in plaintiff's Bill of Complaint. That the acts of said defendants complained of, in said bill of complaint, in assessing taxes upon, levying taxes upon, creating tax liens thereon, and selling for the satisfaction of said tax liens under Chapters III, IV, V, VI and VII, Title 49, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, United States homestead lands before compliance with the United States Ordinary Homestead Law, (Act of May 20, 1862, Ch. 75, 12 Stat. L. 392 and amendments thereof and supplements thereto, Sections 2289-2301, inclusive, United States Revised Statutes), and the Reclamation Homestead law, (Act of June 17, 1902, Ch. 1093, Sec. 1, 32 Stat. 388, and amendments thereof and supplements thereto), as to payment of fees due to the United States Government, reclamation, irrigation, cultivation and improvement thereof by this plaintiff and persons similarly situated; while the title to said lands was and is vested in, and while such lands belonged to the United States Government, is in derogation of the sovereign exemption of the United States Government property from taxation contrary to

and in contravention of Clauses 1 and 18, Sec. 8, Article I, paragraph 2, Article VI, and an interference with the primary disposal of the public domain contrary to and in contravention of Clause 2, Section 3, Article IV of the United States Constitution.

Second. That the answer of said defendants on file herein admits each and every material allegation of fact set forth in the plaintiff's bill of complaint, and that the Chapters III, IV, V, VI and VII, Title 19, Revised Statutes of Arizona, 1913, and amendments thereof and supplements thereto, pleaded, set forth, and relied upon by the said defendants, and as said Revenue Laws of the State of Arizona are applied, interpreted and administered by said defendants in assessing taxes upon, levying taxes upon, creating tax liens thereon, and selling for the satisfaction of said tax liens United States Homestead lands before compliance with the United States Ordinary Homestead Law, and the Reclamation Homestead Law, as to payment of fees due to the United States Government, reclamation, irrigation, cultivation and improvement thereof by this plaintiff and persons similarly situated, are in conflict with, and in contravention of Clauses 1 and 18, Sec. 8, Article I, and paragraph 2, Article VI and Clause 2, Sec. 3, Article IV of the United States Constitution.

X.

That the United States District Court for the District of Arizona erred in rendering judgment for the defendants and against the plaintiff, and in denying plaintiff's bill of complaint for the reasons:

First. That the pleadings and evidence in this suit admit and show that the taxes complained of were assessed against the lands of this plaintiff, and persons similarly situated, as said lands are described in the plaintiff's bill of complaint before the fixing of the Farm Unit for the Salt River Project, in which said lands lie, and before affording the plaintiff, and persons similarly situated, an opportunity or reasonable time to comply with the requirements of the United States Ordinary Homestead Law, (Act of May 20, 1862, Ch. 75, 12 Stat. 1, 392, and amendments thereof and supplements thereto, Sections 2289-2301, inclusive, United States Revised Statutes), and the Reclamation Homestead Law, (Act of June 17, 1902, Ch. 1093, Sec. 1, Stat. 388, and amendments thereof and supplements thereto), as to payment of fees due the United States Government for said lands, reclamation, irrigation, cultivation or improvement thereof, and while the title to said lands was vested in, and while such lands belonged to the United States Government, in derogation of the sovereign exemption of the United States Government property from taxation, contrary to, and in contravention of, Clauses 1 and 18, Section 8, Article I, and paragraph 2, Article VI, and Clause 2, Section 3, Article IV, of the United States Constitution.

Second. That the pleadings and evidence in this suit admit, establish and show that the taxes complained of were assessed against the lands of this plaintiff, and persons similarly situated, as said lands are described in the plaintiff's bill of complaint before the fixing of the Farm Unit for the Salt River Project, in which said lands lie, and before affording the plaintiff and persons similarly situated, an opportunity or reasonable time to comply with the requirements of the United States Ordinary Homestead Law, and the Reclamation Homestead law, as to payment of fees due the United States Government for said lands, reclamation, irrigation, cultivation or improvement thereof without due process of law, and in derogation of, and in denial of the rights, privileges and immunities of the plaintiff, and persons similarly situated, as citizens of the United States contrary to, and in contravention of Section 1, of the 14th Amendment to the United States Constitution.

58 Wherefore, by reason of the manifest errors aforesaid, the said William Irwin prays that the said decree of the said District Court may be in all things annulled, reversed and held for naught, and that this Court do render its decree in favor of the said William Irwin granting him the relief prayed in his said bill of complaint, or that it do remand this cause to the said District Court with directions to render such decree.

ERNEST W. LEWIS,
M. J. DOUGHERTY AND
DOUGHERTY & DOUGHERTY,
Solicitors for Plaintiff.
F. H. SWENSON.

M. J. DOUGHERTY,
Business Address: Mesa, Arizona.
DOUGHERTY & DOUGHERTY,
Business Address: Mesa, Arizona.

(Endorsement:) In the District Court of the United States for the District of Arizona. William Irwin, plaintiff, vs. Sam F. Webb, County Treasurer et al., defendants. In equity. No. E-89 (Phoenix.) (Phoenix, Maricopa County, State of Arizona.) Assignment of errors. Filed April 20, 1920, C. R. McFall, Clerk. Received copy of the within Assignment of Errors this 19th day of April, 1920. L. M. Laney, Attorney for Defendants. By R. A. Jarrott, Deputy Co. Attorney.

89 In the District Court of the United States for the District
of Arizona,

In Equity,

No. R-89 (Phoenix),

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor;
L. M. LANEY, County Attorney; J. G. MONTGOMERY, County
Sheriff, and J. W. BRADSHAW, W. K. BOWEN, and C. W. PETERSON,
County Supervisors of Maricopa County, State of Arizona, De-
fendants.

(Phoenix, Maricopa County, State of Arizona.)

Bond on Appeal.

Know all men by these presents:

That we, William Irwin, as principal, of the County of San Bernardino, State of California, and Paul Baxter Beville, A. H. Gibson, H. W. Jones and W. A. Anderson, as sureties, of the County of Maricopa, State of Arizona, are held and firmly bound unto Sam F. Webb, County Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County Attorney, J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen and C. W. Peterson, County Supervisors, of Maricopa County, State of Arizona, in the sum of Five Hundred (\$500.00) Dollars lawful money of the United States, to be paid to them and their respective executors, administrators and successors; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and each of our heirs, executors, and administrators, by these presents.

Sealed with our seals and dated this 13th day of March, 1920.

90 Whereas, the above named William Irwin, has prosecuted and appealed to the Supreme Court of the United States to reverse the judgment of the District Court for the District of Arizona in the above entitled cause.

Now therefore, the condition of this obligation is such that if the above named William Irwin shall prosecute his said appeal to effect and answer all costs if he fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and effect.

WM. IRWIN,
PAUL BAXTER BEVILLE,
A. H. GIBSON,
H. W. JONES,
W. A. ANDERSON.

STATE OF CALIFORNIA,

County of San Bernardino, ss:

On the 27th day of March, 1920, personally appeared before me William Irwin, known to me to be the person described in and — duly executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed for the purposes therein set forth.

And the said William Irwin, being by me duly sworn, says, that he is a resident and householder of the said county of San Bernardino, and that he is worth the sum of \$500.00 over and above his just debts and legal liability and property exempt from execution.

WM. IRWIN.

91 Subscribed and sworn to before me this 27th day of March, 1920.

G. W. HARDING,
Notary Public.

My commission expires Jan. 8th, 1921.

STATE OF ARIZONA,

County of Maricopa, ss:

On the 8th day of April, 1920, personally appeared before me Paul Baxter Beville, A. H. Gibson, H. W. Jones and W. A. Anderson, respectively known to me to be the persons described in and — duly executed the foregoing instrument as parties thereto, and respectively acknowledged, each for himself, that they executed the same as their free act and deed for the purposes therein set forth.

And the said Paul Baxter Beville, A. H. Gibson, H. W. Jones and W. A. Anderson, being respectively by me duly sworn, says, each for himself and not one for the other, that he is a resident and householder of the said County of Maricopa, and that he is worth the sum of \$500.00 over and above his just debts and legal liability and property exempt from execution

PAUL BAXTER BEVILLE,
A. H. GIBSON,
H. W. JONES,
W. A. ANDERSON.

Subscribed and sworn to before me this 8th day of April, A. D., 1920. My commission expires Sept. 6, 1922.

WM. A. HARKINS,
Notary Public.

92 *My commission expires ———.*

The within bond is approved both as to sufficiency and form this 16 day of April, 1920.

WM. H. SAWTELLE,
*Judge of the United States District
Court for the District of Arizona.*

The sufficiency of the foregoing bond, both as to form thereof and the property qualifications of the parties thereto, is hereby acknowledged this 14th day of April, 1920, by the defendants in the above-entitled cause.

L. M. LANEY,

Solicitor for Defendants.

(Endorsements:) No. R-89 (Phoenix) in the District Court of the United States for the District of Arizona. In Equity, William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, et al. Defendants. Bond on appeal. Filed April 16, 1920, C. R. McFall, Clerk.

93 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff.

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff; and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Affidavit of Service.

STATE OF ARIZONA.

County of Maricopa, ss:

Victor H. Harding, being first duly sworn, on his oath deposes and says: That he is a disinterested party in the above entitled action and that he is a citizen of the United States and of the State of Arizona, and that he is over the age of twenty-one years; that he served a copy of the Citation on Appeal in the above entitled cause, witnessed by Judge William H. Sawtelle, dated April 20, 1920, by delivering a true and correct copy of the same to L. M. Laney, Attorney, as the Solicitor for defendants, on the 20th day of April, 1920, and informing said solicitor of the contents thereof.

(Sgd.)

VICTOR H. HARDING.

Subscribed and sworn to before me this 20th day of April, 1920.
My commission expires August 22, 1920.

[SEAL.]

F. H. SWENSON,

Notary Public.

(Endorsements:) No. E-89 Phoenix. In Equity. In the U. S. District Court, District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, et al., Defendants. Affidavit of service. Filed April 21, 1920. C. R. McFall, Clerk, by Clyde C. Manning, Deputy Clerk.

In the United States District Court for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

VS.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. C. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants.

Order Enlarging Time to File Record and Docket Case.

It appearing to the Court that, by reason of the size of the record in this case and the time necessary to prepare a transcript thereof, the clerk of this Court will be unable to prepare the same and return and file the record with the clerk of the Supreme Court of the United States on or before the 19th day of June, A. D., 1920, that being the return day of the citation heretofore issued and served.

Now, therefore, for good cause shown, the undersigned, the Judge who signed said citation, does hereby order that the time to file the record in this case, and to docket this case with the clerk of the Supreme Court of the United States, and the return day of citation, be and the same is hereby enlarged and extended until and including the 1st day of August, 1920.

June 3, 1920.

WM. H. SAWTELLE,
Judge of the U. S. District Court,
District of Arizona.

Filed June 3, 1920.

C. R. McFALL,
Clerk United States District Court
for the District of Arizona.

95 In the District Court of the United States for the District of
Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor,
I. M. LANEY, County Attorney, J. G. MONTGOMERY, County Sheriff
and J. W. BRADBLOW, W. K. BOWEN, and C. W. PETERSON, County
Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Præcipe for Record.

To the clerk of the above entitled court:

You will please prepare transcript of the record in this cause to be
filed in the office of the Clerk of the United States Supreme Court
upon appeal heretofore taken herein by the said William Irwin
plaintiff, and include in said transcript the following pleadings, pro-
ceedings, and papers on file, to-wit:

1. Complaint, answer, motions to strike, reply and all pleadings
filed in this cause.

2. Assignment of errors.

3. All minute entries and orders of the Court.

4. Agreed statement of facts.

5. The decree of Court made herein.

6. All exhibits offered in evidence in this cause, except "General
Reclamation Circular," approved May 18, 1916, and "Suggestions
to Homesteaders and persons desiring to make Homestead Entries",
approved April 6, 1917.

7. Pages 3 to 31, inclusive, "General Reclamation Circular", ap-
proved May 18, 1916.

96-262 8. Pages 3 to paragraph 43 on page 19, inclusive "Sug-
gestions to Homesteaders and Persons Desiring to Make
Homestead Entries."

The said transcript to be filed with the Clerk of the Supreme
Court of the United States at Washington, D. C. on or before the
19th day of June, 1920.

(Signed)

ERNEST W. LEWIS,
M. J. DOUGHERTY &
DOUGHERTY & DOUGHERTY,
F. H. SWENSON, *Solicitors for Plaintiff.*

Tracts 1, 2, 3, 3
 Suit # 10 661

STATE OF ARIZONA, | SS.
 COUNTY OF MARICOPA

I, Sam F Kelly
 the same first became delinquent until paid
 funds and for the respective amounts, set opp

MANUFACTURING STATIONERS - PHOENIX, ARIZONA

(Page 203)

CURRENT NO.	YEARS FOR WHICH TAXES ARE DUE	PERSON IN WHOSE NAME PR WAS ASSESSED
----------------	--	---

	34	1911	Jm A Anderson
	31	1912	Jm A Anderson
	46	1913	Jm A Anderson
	69	1914	Jm A Anderson
	69	1914	Jm A Anderson
	42	1915	Jm A Anderson
	42	1915	Jm A Anderson
	57	1916	Jm A Anderson
	35	1917	Jm A Anderson
	35	1917	Jm A Anderson
Ans 1/1/8 - 4/22/19	193	1918	Jm A Anderson
" 1/1/8 - 4/22/19	193	1918	Jm A Anderson
" 124 1/2 - 10/20/19	202	1919	Jm A Anderson
" 124 1/2 - 10/20/19	183	1919	Jm A Anderson
" 124 1/2 - 10/21/19	4516	1919	A R Heineman
" " " " "	4516	1919	A R Heineman
" " " " "	4516	1919	Personal prop

(Endorsement) Defendant's Exhibit No. 1
 Filed March 13, 1920, C.R. Mol
 By Clyde C. Downing, Deputy

BACK TAX BILL

I, , Treasurer and Ex-Officio Tax Collector of Maricopa County, State of Arizona, do hereby certify that the following amounts of back taxes for the years hereinafter indicated, together with interest and four per cent collection fee, remain and are delinquent and wholly due and unpaid on that certain real and personal property situated and located in said county and state and hereinafter set opposite thereto all as shown by the Back Tax Book, being a part of the official records in my office, to-wit:

NAME PROPERTY ASSESSED	TRACT OR SUBDIVISION	SECTION OR LOTS	TOWN- SHIP OR BLOCK	RANGE	ACRES	STATE AND COUNTY TAXES		TOWN TAX		SPECIAL ROAD TAX		SCHOOL DIST. NO. 41		KIND FOR SCHOOL PURPOSE (NOT INCLUDING REGULAR ED TAX)
						Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	
Egmont in NE 1/4 (for waste)		Dec 29	21 S	6 E	160	56 64								16 56
" " NE 1/4 (for waste)		Dec 29	21 S	6 E	160	114 92								32 76
" " NE 1/4 (6 ac waste)		Dec 29	21 S	6 E	160	89 57								27 04
" " 27 ac NE 1/4 E of canal		Dec 29	21 S	6 E	27	2 59								1 19
" " 128 ac NE 1/4 W of canal		Dec 29	21 S	6 E	128	95 04								43 56
" " 128 ac NE 1/4 N of canal		Dec 29	21 S	6 E	128	109 76								44 10
" " 28 ac NE 1/4 E of canal		Dec 29	21 S	6 E	28	3 02								1 22
" " 128 ac NE 1/4 N of canal		Dec 29	21 S	6 E	128	91 32								55 55
" " 128 ac NE 1/4 N of canal		Dec 29	21 S	6 E	128	111 02								56 54
" " 28 ac NE 1/4 E of canal		Dec 29	21 S	6 E	28	2 92								1 49
" " 128 ac NE 1/4 N of canal		Dec 29	21 S	6 E	128	170 33								134 09
" " 28 ac NE 1/4 E of canal		Dec 29	21 S	6 E	28	2 63								2 07
" " 28 ac NE 1/4 E of canal		Dec 29	21 S	6 E	40	74 48								66 08
" " 28 ac NE 1/4 E of canal		Dec 29	21 S	6 E	40	74 48								66 08
" " E 1/2 NE 1/4 25 ac N of canal		Dec 29	21 S	6 E	25	46 55								41 30
" " E 1/2 NE 1/4 55 ac E of canal		Dec 29	21 S	6 E	55	73 22								64 94
						7 98								7 08

I, R. McFall, Clerk
Deputy Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand at the City of Phoenix, in said County of Maricopa, Arizona, this 1st day of January, 1921.

[Signature]

TAX BILL

Taxes for the years hereinafter indicated, together with interest thereon at the rate of ten per cent per annum from the respective dates when and located in said county and state and hereinafter described, said property being assessed in the name of the persons, in favor of the several

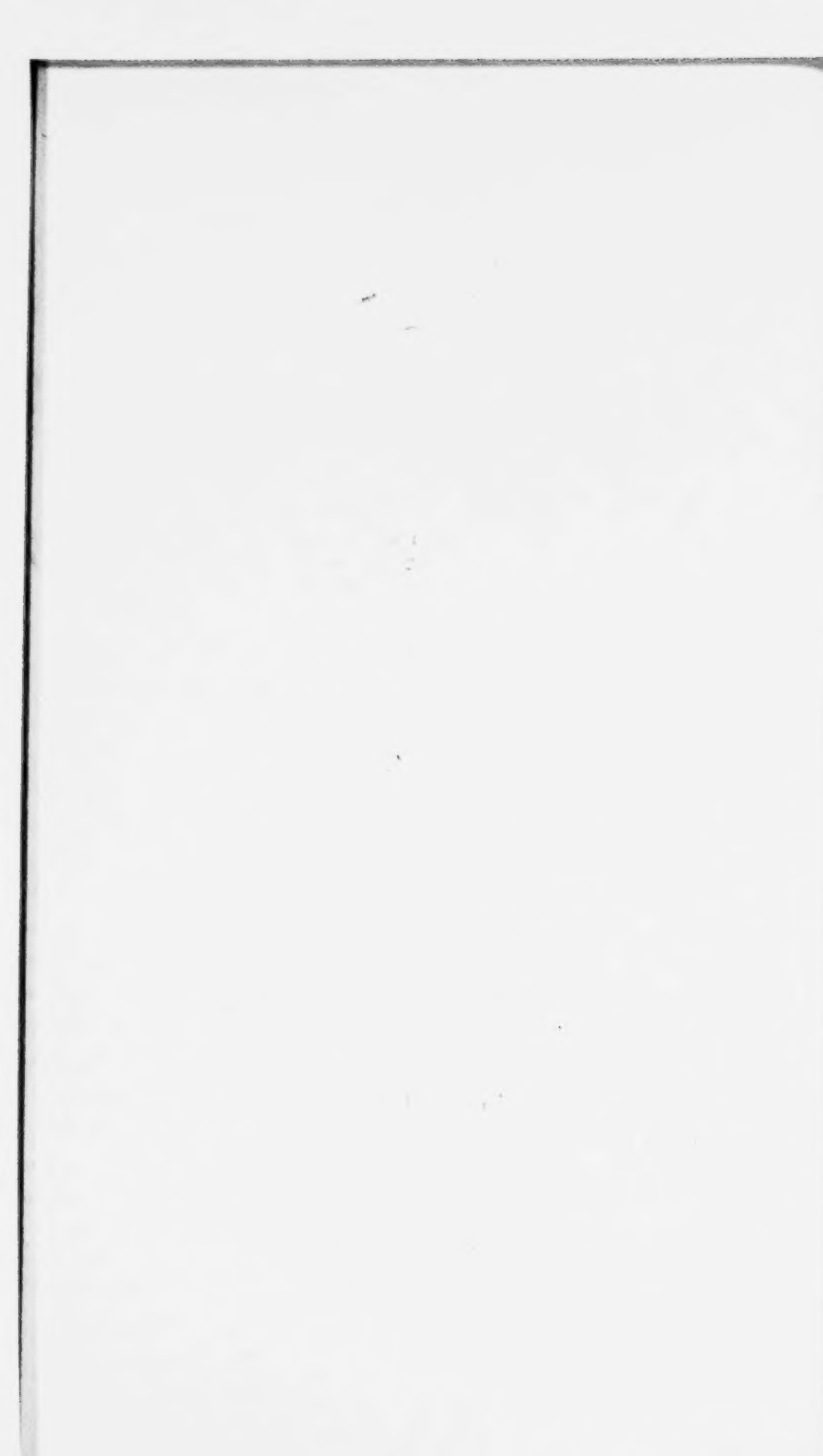
KINDS OF TAXES OR FUNDS TO WHICH DUE																INTEREST AND FEES								Total Tax, Interest And Fees to date To Which Interest Is Computed		
1 23	TOWN TAX	SPECIAL ROAD TAX	FOR SCHOOL PURPOSES (NOT INCLUDING REGULAR SCHOOL TAX)								DRAIN. DISTS.	IRRIG. DIST.	ROAD TAX	SCHOOL TAX	TOTAL TAX	INTEREST COMPUTED TO	COLLECTION FEE	FEES FOR MAKING BACK TAX BOOK								
			SCHOOL DIST. NO. 41 HIGH SCHOOL																							
24	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.	Dollars	Cts.
64					16	56					200	250	77	70											15	
72					32	76					200	250	152	18											-	
87					27	04							116	61											15	
89					1	19							378												15	
94					43	56							138	60											15	
76					44	10							153	86											15	
72					1	22							474												15	
32					55	55							146	87											15	
02					56	54		686					174	42											15	
92					1	49							441												15	
33					13	409							304	42												
63					2	07							470													
48					66	08							140	56												
48					66	08							140	56												
55					41	30							87	85												
32					6	49							13	81												
98					7	08							15	06												
															TOTAL											

I do set my hand at the City of Phoenix, in said County and State, this 10th day of January, 1920

{ Seal }

Sam I. Hess

Treasurer and Ex-Officio Tax Collector of Maricopa County, State of Arizona



Received a copy of the foregoing præcipe for transcript of record this, the 21st day of April, A. D. 1920.

L. M. LANEY,
Solicitor for Defendants.

(Endorsements:) In Equity, No. E-89 Phoenix. In the U. S. District Court for Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, et al., defendants. Præcipe for record. Filed April 21, 1920. C. R. McFall, Clerk, by Clyde C. Downing, Deputy Clerk.

* * * * *

(Here follows reproduction of back-tax bill, marked page 203;
pages 204-227 omitted.)

228 In the District Court of the United States for the District of Arizona.

I, C. R. McFall, Clerk of the District Court of the United States for the District of Arizona, do hereby certify that I am the custodian of the Records, papers and files of the said United States District Court for the District of Arizona, including the records, papers and files in the case of William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, C. W. Cummins, County Assessor, L. M. Laney, County Attorney, J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants, said case being No. E-89 (Phoenix) on the docket of said Court.

I further certify that the attached transcript contains a full, true and correct transcript of the proceedings in said case and of all papers filed therein, together with the endorsements of filing thereon, as set forth in the præcipe filed in said case and made a part of the transcript attached hereto, as the same appears from the originals of record and on file in my office as such Clerk in the City of Phoenix, State and District aforesaid.

I further certify that the cost for preparing and certifying to said record, amounting to \$68.60 has been paid to me by William Irwin, Plaintiff (Appellant) in the above entitled cause.

And I further certify that the original citation issued in this cause is hereto attached.

Witness my hand and the seal of said United States District Court this 12th day of July, A. D., 1920.

[Seal of United States District Court, District of Arizona.]

C. R. McFALL,
*Clerk United States District Court,
District of Arizona.*

229 In the District Court of the United States for the District of Arizona.

In Equity.

No. E-89 (Phoenix).

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer; C. W. CUMMINS, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors of Maricopa County, State of Arizona, Defendants.

(Phoenix, Maricopa County, State of Arizona.)

Citation on Appeal.

UNITED STATES OF AMERICA, ss:

To Sam F. Webb, County Treasurer; C. W. Cummins, County Assessor; L. M. Laney, County Attorney; J. G. Montgomery, County Sheriff, and J. W. Bradshaw, W. K. Bowen, and C. W. Peterson, County Supervisors, of Maricopa County, State of Arizona, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, in the District of Columbia, on the 19th day of June A. D. 1920. Pursuant to an order allowing an appeal filed and entered in the clerk's office of the district court of the United States for the district of Arizona from a final decree signed, filed, and entered on the 13th day of March, 1920, in that certain suit, being in equity No. E-89 wherein William Irwin is plaintiff and you are the defendants and appellees, to show cause, if any there be, why the decree rendered against the said appellant, as in said order allowing appeal mentioned, should not be corrected and why justice should not be done to the parties in that behalf.

230 Witness the Honorable William H. Sawtelle, United States District Judge for the district of Arizona, this 20th day of April, 1920, and of the Independence of the United States 144th.

WM. H. SAWTELLE,
U. S. District Judge for the
District of Arizona.

Service accepted this 20th day of April, 1920.

Solicitors for Defendants.

231 [Endorsed:] In Equity. No. E-89 Phoenix. In the District Court of the United States for the District of Arizona. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, et al.,

Defendants. Citation on appeal. Filed April 20, 1920. C. R. McFall, Clerk. By Clyde C. Downing, Deputy Clerk.

232 In the Supreme Court of the United States, October Term, 1920.

No. 454.

WILLIAM IRWIN, Plaintiff,

vs.

SAM F. WEBB, County Treasurer, et al.

Stipulation Concerning Printing of Record.

For all the purposes of the hearing of this cause by the Supreme Court of the United States it is hereby stipulated by and between counsel for appellant and for appellees that the parts of the record which are deemed necessary for consideration by the Court and which, therefore, should be printed are those parts specifically designated hereinafter, the place where each part will be found in the record as certified by the Clerk of the Court below being indicated by a reference to the page or pages of such record.

I. The bill of complaint and all exhibits ("A," "B" and "C") thereto, extending from page 1 to page 32.

II. Answer of the Defendants, extending from page 38 to page 44.

III. The Plaintiff's motion to strike, extending from page 45 to page 46.

IV. Order setting for hearing, page 47.

V. Amended motion to strike, pages 48 to 49, inclusive.

VI. Order setting for argument on motion to strike, page 50.

VII. Order overruling motion to strike, page 51.

VIII. Plaintiff's reply, extending from page 52 to page 57.

IX. Plaintiff's motion for judgment on the pleadings, pages 58 to 60, inclusive.

X. Agreed statement of facts, pages 61 to 73, inclusive.

XI. Decree of the United States District Court, page 74.

233 XII. Motion for appeal and order allowing same, page 76.

XIII. Assignment of errors, pages 77 to 88.

XIV. Bond on appeal and approval of same, pages 89 to 92.

XV. Citation to appellee and service, page 93.

XVI. Order enlarging time to file record, page 94.

XVII. Præcipe for record to Clerk of the United States District Court and service thereof, pages 95 and 96.

XVIII. Certificate of Clerk of United States District Court, page 228.

XIX. Citation on appeal, page 229.

XX. Defendants' Exhibit One. Said exhibit one, being the first back tax bill out of 25 sheets which altogether are designated as defendants' exhibits, 1 to 22, comprising 25 sheets double length, out of said back tax bills, the first one only is to be printed, and is to be taken and held as a sample and illustration of the manner in which all remaining back tax bills are prepared as to form and arrangement.

XXI. This stipulation.

The making of this stipulation is without prejudice to any motion or objection by either plaintiff or any of the defendants heretofore or hereafter, its sole and exclusive purpose being to expedite the printing of the record and to prevent the inclusion in the printed record of immaterial matter and thus lessen costs.

Dated this 4th day of December, 1920, at Phoenix, Arizona.

ERNEST W. LEWIS,

M. J. DOUGHERTY,

DOUGHERTY & DOUGHERTY,

F. H. SWENSON,

Counsel for Appellant.

P. H. HAYES,

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234 [Endorsed:] 454—27811. No. 454. In the Supreme Court of the United States. William Irwin, Plaintiff, vs. Sam F. Webb, County Treasurer, et al. Stipulation concerning printing of record.

235 [Endorsed:] File No. 27,811. Supreme Court U. S., October Term, 1920. Term No. 454. William Irwin, Appellant, vs. Sam F. Webb, etc., et al. Stipulation as to printing record. Filed Jan. 3, 1921.

236 [Endorsed:] In the Supreme Court of the United States. William Irwin, Appellant, vs. Sam F. Webb, County Treasurer, et al., Appellees. Transcript of record upon Appeal from the United States District Court for the District of Arizona.

Endorsed on cover: File No. 27,811. Arizona D. C. U. S. Term No. 110. William Irwin, appellant, vs. Sam F. Webb, county treasurer of Maricopa County, State of Arizona, et al. Filed July 22d, 1920. File No. 27,811.